

ALABAMA LAWS
(and Joint Resolutions)
OF THE
LEGISLATURE OF ALABAMA
PASSED AT THE
REGULAR SESSION, 1993
VOL. 2



JIM FOLSOM, JR., Governor
RYAN deGRAFFENRIED, President Pro-Tem and
Presiding Officer
JAMES S. CLARK, Speaker of the House
JAMES M. CAMPBELL, Speaker Pro-Tem of the House
McDOWELL LEE, Secretary of the Senate
GREG PAPPAS, Clerk of the House

WITH AN INDEX PREPARED BY THE
LEGISLATIVE REFERENCE SERVICE

The undersigned, as Secretary of State of the State of Alabama, does hereby certify that this book contains bills and joint resolutions enacted at the 1993 Regular Session of the Legislature of Alabama and is the official publication of such acts.

Billy Joe Camp
Secretary of State

Good laws lead to the making of better ones; bad ones bring about worse. As soon as any man says of the affairs of the State 'What does it matter to me?' the State may be given up for lost.

Jean Jacques Rousseau
Social Contract

The public's right to know about their government's activities is a sacred one protected by the United States Constitution, the Alabama Constitution, and the Code of Alabama.

But that right carries a responsibility. If citizens do not actively participate in and monitor the business of government, then as the eighteenth-century French philosopher Rousseau pointed out, the very existence of the free state is in jeopardy.

In keeping with that belief, Alabama law requires that the **Secretary of State publish and make available all the acts of the Alabama Legislature**. Contained within this volume are the acts passed in the 1993 regular session.

Many people worked to make this volume possible including McDowell Lee, Secretary of the Senate; Greg Pappas, Clerk of the House of Representatives; Joyce Bishop and Julie Saint, enrolling and engrossing clerks; Dodie Pappanastos, Helen Thorington, and Ina Clay, technical proofreaders; Dannie Shockley, Recording Secretary for the Governor; Jerry L. Bassett, Director of the Legislative Reference Service; and Hannah M. Bates and Rosemary Judkins of the Office of the Secretary of State.

Freedom's best protection is an informed citizenship; therefore, we take pride in making these new laws accessible to you.

Billy Joe Camp
Secretary of State

Act No. 93-561

H. 971 – Rep. Gullatt

AN ACT

Relating to Russell County; to authorize the county commission to establish one or more fire fighting districts within the county and to levy financial charges or assessments on all units of property within any fire fighting district, subject to the approval of the qualified electors of the county.

Be It Enacted by the Legislature of Alabama:

Section 1. Definitions. As used in this act, the following words and phrases shall have the following meanings:

(1) **COMMERCIAL BUILDING.** A building, structure, or other improvement or sub-part thereof to real property used for, or in connection with, any commercial or business purpose, excluding any ancillary structure, that is subject to ad valorem taxation and has a fair market value of not less than five thousand dollars (\$5,000). A building, structure, or other improvement shall be classified as a commercial building notwithstanding that it is vacant or unused at any time during the fiscal year for which a financial charge is to be levied, or that the owner of the building may be the state, the county, a municipality, or any department, agency, or instrumentality thereof, any public corporation, district, or authority, any nonprofit corporation incorporated or organized under the laws of the state, or any other person whose property is, under the general laws of the state, exempt from ad valorem property taxation. The term commercial building shall not include utility poles, lines, conductors, towers, or structures used to support utility lines or conductors, nor shall it include structures owned by a public water authority or a nonprofit corporation furnishing water to the public.

(2) **COMMISSION.** The Russell County Commission.

(3) **COUNTY.** Russell County, Alabama.

(4) **DISTRICT.** A fire fighting district established pursuant to Amendment No. 381 to the Constitution of Alabama of 1901.

(5) **DWELLING.** A building, structure, or other improvement to real property used, or expected to be used, as a dwelling or residence, including, but not limited to, a building, structure, or other improvement assessed for purposes of state and county ad valorem taxation, as Class III single-family owner-occupied residential property, a duplex, or an apartment building and each subunit thereof, and a manufactured home, mobile home, or house trailer. A building, structure, or other improvement to real property shall be classified as a dwelling notwithstanding that it is wholly or partially vacant at any time during the fiscal year for which a financial

charge is levied, or that it is also used or expected to be used for a purpose other than as a residence.

(6) **FAIR MARKET VALUE.** The fair and reasonable market value of a commercial building or dwelling as the value is appraised by the Russell County Revenue Commissioner, Tax Appraiser, or the State Department of Revenue.

(7) **FINANCIAL CHARGE.** A financial charge or assessment levied by the commission in accordance with this act.

(8) **FIRE PROTECTION CORPORATION.** A public corporation, district, or authority that is organized or incorporated under any law of the state, and is authorized to provide fire protection, fire prevention, and/or Emergency Medical Services provided under or through the auspices of a volunteer fire department, regardless of whether the corporation, district, or authority is also authorized to provide other services, and to make charges for the provision of those services, including any water, sewer, and fire protection district organized or incorporated under Chapter 89 of Title 11 or Chapter 88 of Title 11 of the Code of Alabama 1975, but not including any municipality.

(9) **FIRE PROTECTION FUND.** A fire protection fund established in the county treasury pursuant to this act.

(10) **MUNICIPALITY.** An incorporated city or town.

(11) **OWNER.** A person owning one or more dwellings or commercial buildings.

(12) **SERVICE AREA.** The geographic area in which a fire protection corporation may provide fire protection, fire prevention, and/or Emergency Medical Services provided under or through the auspices of a volunteer fire department.

(13) **TREASURER.** The county treasurer or clerk of the county.

(14) **UNIT OF PROPERTY.** A dwelling or commercial building or sub-part thereof, together with the real property on which it is situated or to which it is appurtenant.

(15) **VOLUNTEER FIRE DEPARTMENT.** A volunteer fire department with which the commission may enter into an agreement with respect to providing fire protection, fire prevention, and/or Emergency Medical Services.

Section 2. Legislative Intent. It is the intention of the Legislature to provide for the operation and financing of a system for providing fire protection, fire prevention, and/or Emergency Medical Services provided through or under the auspices of a volunteer fire department for the benefit of the inhabitants of various

areas of the county, including, without limitation, areas in which those services and facilities might not otherwise be available. This act shall be liberally construed in conformity with this intent.

Section 3. Establishment Of Districts. (a) The fire districts previously established by the commission shall continue in effect. No territory within the corporate limits of any municipality on the effective date of this act shall be included within a district except upon authorization by the governing body of the municipality expressed in a resolution describing the territory that may be included within the district. The governing body may request the commission to exclude all or any portion of territory from the district. As promptly as practicable after the delivery of a certified copy of the resolution, the commission shall take any action necessary to alter the boundaries of the district to exclude the territory and to ratify the exclusion of the territory from the district.

(b) The boundaries of each district as they exist on the effective date of this act are ratified in all respects. The boundaries may be altered by the affected fire departments in accordance with applicable provisions of this act. Within a reasonable time after the effective date of this act, the Russell County Firefighters Association shall assign an appropriate number to each district.

(c) Within a reasonable time after the establishment of any district or any alteration of the boundaries, the commission shall file with the judge of probate a description or appropriate map clearly showing the boundaries of the district, the area within the boundaries, or both the boundaries and the area.

Section 4. Authorization of Levy of Financial Charges. For each fiscal year of the county commencing with the fiscal year beginning October 1, 1993, the commission shall levy a financial charge with respect to each unit of property located within the boundaries of the county, at a rate the qualified electors of the county, excluding the electors of any municipalities not included in a fire district, have approved in an election called and conducted in accordance with applicable provisions of this act. The rate of the financial charge shall be uniform as to each unit of property. The commission shall levy a financial charge at the same time it levies county ad valorem taxes. If the commission fails in any fiscal year to levy any financial charge, the levy for the preceding fiscal year shall be continued.

Section 5. Alteration of District Boundaries by Fire Departments. Without the necessity of holding any special election on such terms and conditions as the affected fire departments may determine, the affected fire departments may alter the boundaries of any district by consolidating with it any territory in the county

that is contiguous to the boundaries of the district. No consolidation shall operate to relieve any volunteer fire department operating in the district of liability for any obligations incurred prior to the consolidation. Without the necessity of holding any special election on such terms and conditions as the affected fire departments may determine, the affected fire departments may exclude from any district any territory then within its boundaries.

Section 6. Incorporation of New Municipality.

(a) If any territory then within the boundaries of one or more districts is, as the result of incorporation of a municipality subsequent to the establishment of a district or subsequent to the then most recent alteration of the boundaries of any district, included within the corporate limits of a municipality, then from and after the date that is 90 days after the date of the first election of the members of the governing body of the municipality, subject to the provisions of Section 8.

(b) The territory described in subsection (a) shall be excluded from the district, effective on the October 1st following the incorporation, and any financial charge authorized to be levied and collected within the territory shall not be levied and collected, effective on the October 1st following the incorporation.

(c) As promptly as practicable thereafter, the commission shall alter the boundaries of the district to exclude the territory and ratify the exclusion of the territory from the district, including, without limitation, the filing of a description or appropriate map with the judge of probate. If, within 90 days after the date of election, the governing body of the municipality adopts a resolution describing the territory and approving the continued inclusion of the territory within the district, the territory described in the resolution shall continue to be included in the district, all as if the incorporation had not occurred. At any time thereafter, the affected fire department may alter the boundaries of the district or exclude the territory therefrom in accordance with the provisions of Section 5. The governing body of the municipality shall promptly deliver a certified copy of the resolution to the commission. If the territory is excluded from the district as a result of the failure of the governing body to adopt a resolution within 90 days, the territory may be included in a district upon compliance with the applicable provisions of subsection (a) of Section 3.

Section 7. Annexation by Municipality. If any territory then within the boundaries of one or more districts is annexed to any municipality, then 30 days after the date the annexation becomes effective, but subject to the provisions of Section 8, the territory shall be excluded from the district effective on the October 1st following

the incorporation, and any financial charge levied and collected within the territory shall not be levied and collected. As promptly as practicable thereafter, the commission shall alter the boundaries of the district to exclude the territory and ratify the exclusion of the territory from the district, including, without limitation, the filing of a description or appropriate map with the judge of probate. If within 30 days after the effective date of the annexation, the governing body of the municipality adopts a resolution describing the territory and approving the continued inclusion of the territory within the district, the territory described in the resolution shall continue to be included in the district, all as if the annexation had not occurred. At any time thereafter, the affected fire department may alter the boundaries of the district or exclude the territory, in accordance with the provisions of Section 5. The governing body of the municipality shall promptly deliver a certified copy of the resolution to the commission. If the territory is excluded from the district as a result of the failure of the governing body to adopt a resolution within the 30 days, the territory may be included in a district upon compliance with the applicable provisions of subsection (a) of Section 3.

Section 8. Compensation for Loss of Territory. If any territory lawfully included within the boundaries of a district is excluded at the instance of the governing body of a municipality pursuant to the provision of Section 3, or as a result of the incorporation or annexation of the territory under the provisions of Section 6 or Section 7, the municipality shall enter into a written agreement with the affected fire department where the municipality agrees to take any or all of the following actions:

(1) If there is located within the territory to be excluded any fire station and appurtenant facilities for the purpose of providing fire protection, fire prevention, and/or Emergency Medical Services provided through or under the auspices of a volunteer fire department, the municipality shall either pay the fair market value thereof or construct and equip a new fire station of comparable size and utility and appurtenant facilities, including real property and fixtures, at the location within that portion of the district remaining after the territory is excluded, that is determined by the affected fire department to be best suited. The municipality shall, upon completion of the station, which shall be completed within one year of annexation, convey the station to the affected fire department, free and clear of all liens and encumbrances. Under either option set forth above, the affected fire department may continue to occupy and utilize the original station until such time as a new station is completed.

(2) If any fire station and appurtenant facilities are located within the territory to be excluded from the district, the affected

fire department shall pay any indebtedness or obligations incurred by the county or the volunteer fire department owning the fire station and appurtenant facilities in connection with the acquisition, construction, or equipment thereof, and shall convey and transfer the fire station and appurtenant facilities to the municipality free and clear of any encumbrances.

(3) In addition, if a municipality annexes more than five adjoining units of property in any fiscal year, then for each such annexed unit of property, the financial charge shall continue to be assessed for a period of five fiscal years next succeeding the fiscal year in which the territory is annexed, in an amount equal to the amount of the financial charges collected, during the 12-month period ending on the date the annexed territory became effective. All moneys paid pursuant to this paragraph shall be treated as proceeds from the financial charge previously levied and collected in the territory excluded from the district, and shall be paid by the county to the affected volunteer fire department:

a. If the remainder of the territory in the district is subsequently consolidated with another district to the volunteer fire department serving the district with which such territory is consolidated; or

b. If the entire district has been excluded, to such volunteer fire department as the Russell County Fire Fighters Association may direct.

All moneys shall be appropriated and expended in accordance with the provisions of Section 10. The municipality shall agree to make any payment provided for in this Section 8, and neither the obligation to make any payment nor any agreement in connection therewith shall be construed to constitute a debt or indebtedness of the municipality within the meaning of any constitutional or statutory limitation on indebtedness then applicable to the municipality.

Section 9. Payment and Collection of Financial Charges. Any financial charge, levied as provided in Section 4, is due and payable on October 1 in the fiscal year of the county next succeeding the fiscal year during which the financial charge is levied and shall become delinquent if not paid before the next succeeding January 1. The revenue commissioner shall collect each financial charge in the same manner as ad valorem taxes are collected. The revenue commissioner shall keep a separate account showing the amount of moneys collected in each fire district which shall be remitted to the treasurer.

From and after October 1 next preceding the levy of any financial charge pursuant to Section 4, the county shall have a lien on each unit of property for the payment of any financial charge that may be levied for the then current fiscal year of the county. This

lien shall continue until the financial charge is paid. In case of default in the payment of the financial charge, the revenue commissioner shall record a lien against such unit of property for the financial charge in the probate records of the county. The lien shall be subject and subordinate only to any lien on property imposed by law in connection with state or local ad valorem taxes. Notwithstanding any provision of this act to the contrary, no unit of property may be sold by the county for failure of the owner of the unit of property to pay the financial charge. Any interest earned on the investment of these funds by the revenue commissioner prior to disbursement shall be remitted as follows:

- (1) Ninety percent shall be paid to the county general fund; and
- (2) Ten percent shall be paid to the Special Interest Account of the revenue commissioner.

Section 10. Exemption for Certain Dwellings and Commercial Buildings. The following persons are exempt from the payment of the financial charges pursuant to this act:

- (1) The owner of a dwelling that constitutes part of a homestead or a principal residence as defined in Section 40-9-19 and Section 40-9-21, Code of Alabama 1975, and who is authorized, by virtue of any qualification of age, blindness, or disability, and income described in Section 40-9-19 or Section 40-9-21, Code of Alabama 1975, to claim the homestead or similar exemption.

Section 11. Use of Proceeds from Financial Charges. (a) The treasurer shall establish in the county treasury a fire protection fund and shall maintain the fund as long as the financial charge is levied and collected. The treasurer shall deposit in the fund all moneys paid pursuant to Section 9 and shall keep the moneys separate and apart from other county revenue. Within 30 days of receipt of the moneys, the treasurer shall pay to each volunteer fire department the moneys levied and collected within the fire district that the department serves. The volunteer fire department shall use the moneys exclusively as follows:

- (1) To pay expenses of providing fire protection, fire prevention, and/or Emergency Medical Services provided through or under the auspices of a volunteer fire department, within the district in which the financial charge is levied and collected, excluding salaries to volunteers or staff employees.
- (2) To pay the reasonable agreed upon initial expenses of levying and collecting the financial charge within the district, including reasonable agreed upon initial computer programming costs and personnel costs for inputting computer data.

- (b) For purposes of this Section 10:

(1) Reasonable agreed upon costs incurred in connection with conducting any election pursuant to this act shall be deemed expenses of levying and collecting a financial charge. If the financial charge fails to be approved, the costs of the election shall be shared equally by the 11 volunteer fire departments in Russell County.

(2) Reasonable agreed upon costs incurred in connection with the preparation, advertisement, or enactment of this act shall be deemed expenses of providing fire protection, fire prevention, and/or Emergency Medical Services provided through or under the auspices of a volunteer fire department.

(3) Any reasonable agreed upon expenses or costs paid by the county in anticipation of reimbursement out of the proceeds of the financial charge shall be deemed expenses of providing fire protection, fire prevention, and/or Emergency Medical Services provided through or under the auspices of a volunteer fire department, or expenses of levying and collecting the financial charge for which the county may be reimbursed out of the district fire protection fund.

(c) Specifically, and without limiting the generality of the foregoing, the commission shall disburse moneys on deposit in the fire protection fund for the benefit of the volunteer fire department operating in the district from which moneys were derived with each department receiving all moneys collected in its district. Notwithstanding the foregoing, each department shall receive a minimum amount of ten thousand dollars (\$10,000) per year. The department shall use the moneys for payment of expenses incurred by it in providing fire protection, fire prevention, and/or Emergency Medical Services provided through or under the auspices of a volunteer fire department within the district. Nothing contained herein shall be construed to prohibit any volunteer fire department whose expenses have been, are being, or are to be paid wholly or partly with proceeds from any financial charge deposited in a district fire protection fund from responding to requests for mutual aid calls for fire fighting assistance in counties adjacent to the county or in municipalities or in districts other than the district for which the fund has been established and maintained. Notwithstanding the foregoing, no volunteer fire department receiving any funds pursuant to this act shall respond to first response calls outside of the county.

(d) The commission may enter into an agreement with any volunteer fire department with respect to providing fire protection, fire prevention, and/or Emergency Medical Services provided through or under the auspices of a volunteer fire department, provided by the volunteer fire department within one or more districts.

Section 12. Special Elections Regarding Financial Charges. The commission shall, upon written request of the Russell County Firefighters Association, call a special election for the purpose of

determining whether a financial charge shall be authorized to be levied and collected. Any subsequent election to determine whether the rate of any financial charge then authorized to be levied shall be increased shall be held at a regular general election. The commission shall publish a notice of the election once a week for three successive weeks, in a newspaper published and having general circulation in the county, the first publication to be made at least 21 days before the election. The notice shall state the purpose for which the election is to be held, the time and places for holding it, and the maximum rate of financial charge proposed to be levied. The notice shall be signed by the chair of the commission. The commission shall call the special election for a time no later than 60 days subsequent to the receipt of such request.

Section 13. Conduct of Special Elections. (a) The managers, inspectors, or other officers of any special election authorized to be held pursuant to this act shall be appointed, and the special election shall be held in the same manner and by the same officers as a regular election for county officers. If a special election is held at the time for holding a regular election in the county, the election officers of the regular election shall conduct the special election at the same time as the regular election, and for such services they shall receive no compensation other than that allowed them for the holding of the regular election. If the special election is held at some other time than that of a regular election, the election officers shall receive the same pay as they receive for holding a regular election. All expenses for holding any special election shall be paid out of the county treasury and may, as provided in Section 10, be paid or reimbursed out of the fire protection fund.

(b) The election officers for a special election shall conduct and make returns. If the election officers fail to appear at the polling place to which they are appointed, the officers who do appear shall appoint someone to take their places. Unless a special election is held at the time for holding a regular election for county officers, all special election officers shall be residents of the county and qualified electors of the beat or precinct in which they reside. The sheriff shall notify all election officers of their appointments. The polls shall be opened and closed on the day of the special election by the election officers, at the times provided under the general laws of the state. Immediately upon closing the polls, the officers shall ascertain the results of the special election at their respective voting places, make returns of the results to the commission, and deliver the ballot box containing the returns, with the poll lists, tally sheets, and other necessary papers, to the returning officers of the voting places, who shall deliver them to the commission on or before noon at the second day after the day of the election.

Section 14. Qualification of Voters. All persons who, at the time of any special election held pursuant to this act, are qualified electors of the county, but excluding electors of any municipality not included in any fire district, shall be qualified electors to participate in the special election.

Section 15. Election Supplies. When any special election is to be held, the commission shall provide the necessary number of ballots, poll lists, tally sheets, ballot boxes, booths, instructions for holding the special election, and all other necessary and proper stationery for holding the special election. The sheriff shall ensure that they are delivered to the appropriate election officers before the day of the special election.

Section 16. Ballots. (a) There shall be printed, in plain type, on each ballot used in any special election with respect to the initial authorization of the levy of a financial charge in the county, a proposition in substantially the following form, with any insertions or omissions as may be necessary:

“Shall the Russell County Commission be authorized to levy annually a financial charge or assessment for fire protection, fire prevention, and/or Emergency Medical Services provided through or under the auspices of a volunteer fire department, at a rate of twenty-five dollars (\$25) on each unit of property within the county, commencing with the fiscal year beginning October 1, 1993, and in each fiscal year thereafter? Yes ____ . No ____ .”

(b) There shall be printed, in plain type, on each ballot used in any special election held under this act with respect to an increase in the maximum rate of a financial charge then authorized to be levied in Russell County, the election to be held at a regular general election, a proposition in substantially the following form, with any insertions or omissions as may be necessary:

“Shall the Russell County Commission be authorized to increase the rate of that certain financial charge or assessment for fire protection, fire prevention, and/or Emergency Medical Services provided through or under the auspices of a volunteer fire department, heretofore authorized to be levied annually by it at a rate of \$ _____ on each unit of property within the county, from the existing rate of \$ _____ to a rate of \$ _____ on each unit of property within the county, with the increased rate to become effective commencing with the fiscal year of the county beginning October 1, 19____, and in each fiscal year thereafter? Yes ____ . No ____ .”

Section 17. Canvassing Returns and Declaring Results of Special Elections. Within four days after any special election, the judge of probate shall canvass the returns made with respect to

the special election and make a written report declaring the result of the special election, showing the number of votes cast, both for and against the proposition set out on the ballot used in the special election. A copy of the report shall be printed in a newspaper published and having general circulation in the county, and the original of the report shall be filed with the judge of probate.

Section 18. Effect of Special Election. If a majority of the qualified electors voting in a special election approve the authorization of the levy of a financial charge or an increase in the rate at which the financial charge shall be authorized to be levied, the commission shall proceed to levy the financial charge. If a majority do not approve, the financial charge shall not be levied or collected or shall be levied or collected at a rate in excess of that previously authorized by the qualified electors of the county.

Section 19. Other Provisions Respecting Special Elections. Where no provisions are otherwise made in this act, the general election laws of the state shall govern in all respects. All penalties fixed for wrongful acts and violations of the general election laws of the state shall apply to similar acts and violations in all special elections held under this act. The provisions of this act relating to the calling of special elections are mandatory and those relating to the conduct and the method of canvassing the same are directory.

Section 20. Appeals. Any owner may appeal the assessment of a financial charge by filing a written appeal with the Revenue Commissioner. All such appeals shall be heard by a three member Board of Appeals comprised of the Revenue Commissioner, one citizen of the county appointed by the Commission, and the President of the Russell County Firefighters Association or their designees. All rulings of the Board of Appeals shall be final.

Section 21. Liability of the County. Nothing in this act shall in any way make the county liable for the provision of or delivery of fire protection, fire prevention and/or Emergency Medical Services in the county.

Section 22. Audit. All funds received pursuant to this act shall be subject to such periodic audits as may be determined by the county commission. The audits shall be made by either an independent accounting firm or the Examiners of Public Accounts.

Section 23. Effective Date. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved May 13, 1993

Time: 3:01 P.M.

Act No. 93-562

H. 796 – Rep. Zoghby

AN ACT

Relating to Mobile County; providing for the county governing body to reimburse the offices of judge of probate, revenue commissioner, or license commissioner for monetary loss resulting from the performance of official duties for errors or mistakes made in good faith, not to exceed a certain annual maximum per office; and providing that reimbursement payments be made from the county general fund.

Be It Enacted by the Legislature of Alabama:

Section 1. The Mobile County governing body shall reimburse the office of license commissioner, judge of probate, or revenue commissioner, from the general fund of the county, the amount of any monetary loss, not to exceed a total payment of two thousand, five hundred dollars (\$2,500) per office, per annum, arising or caused by error if the mistake or omission was caused without the personal knowledge of the officer, including loss arising from acceptance of worthless or forged checks, drafts, money orders, or other written orders for money or its equivalent.

Section 2. It shall be the duty of the license commissioner, judge of probate, or revenue commissioner to insure that the employees of the respective offices exercise due care in performing their required duties and make a diligent effort to correct the error, mistake, or omission. The respective officers shall make a good faith effort to collect the amount subject to potential loss immediately upon becoming aware of the potential loss.

Section 3. This act shall not apply to any deliberate misuse or misappropriation of funds by the judge of probate, revenue commissioner, or license commissioner, or by any official, any clerk, or any employee of the respective officials.

Section 4. The provisions of this act are severable. If any part of this act is declared invalid or unconstitutional, that declaration shall not affect the part which remains.

Section 5. All laws or parts of laws which conflict with this act are repealed.

Section 6. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved May 13, 1993

Time: 3:02 P.M.

Act No. 93-563

H. 931 – Rep. Butler

AN ACT

Relating to the City of Triana in Madison County; authorizing the governing body to levy an additional ad valorem tax and providing for a referendum.

Be It Enacted by the Legislature of Alabama:

Section 1. Pursuant to subsection (f) of Amendment No. 373 to the Constitution of Alabama of 1901, the governing body of the City of Triana in Madison County may levy, in addition to any other tax, an ad valorem tax in the amount of 9 mills on each dollar of taxable property in the city. The revenue from the additional tax shall be paid to the governing body of the City of Triana to be used to augment the funding of the county schools which serve the City of Triana and for general education purposes of those schools. General education purposes for those schools may include support for library needs of the City of Triana to serve the students of those schools who live in Triana.

Section 2. The increase in the rate of the tax as provided by this act is subject to the approval of a majority of the qualified electors of the City of Triana who vote on the proposed increase at the next general, primary, constitutional, or special election held for that purpose.

Section 3. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved May 13, 1993

Time: 3:03 P.M.

Act No. 93-564

H. 939 – Rep. Mikell

AN ACT

Relating to Elmore County; amending Act No. 89-260, H. 567, 1989 Regular Session, which provided for the assessment and distribution of additional costs and charges in all circuit and district court cases, excluding small claims division, and established a juvenile court services fund, so as to increase said additional costs and charges from \$1 to \$3.

Be It Enacted by the Legislature of Alabama:

Section 1. Act No. 89-260, H. 567, 1989 Regular Session is amended to read as follows:

(a) In addition to all other costs and charges in circuit and district court cases in Elmore County, a fee of \$3 shall be charged and collected by the clerk of the court. This additional charge shall not be collected on small claims cases. When collected by the clerk of the courts, the additional three dollar fee shall be remitted monthly to the juvenile court services fund.

(b) In addition to any other costs and charges now provided by law, a monthly supervision fee may be assessed in juvenile court cases at the discretion of the juvenile court judge. The supervision fee shall be collected by the juvenile court office and deposited in the juvenile court services fund.

(c) There is established a juvenile court services fund for the deposit of the additional court costs levied by this act. The fund shall be maintained in an interest-bearing account in a bank of known responsibility under the supervision of the juvenile court judge of Elmore County, expended solely for juvenile programs and for subsistence for the juvenile court staff in the county so as to aid the functions of the juvenile court and benefit of the children of Elmore County. Any funds expended shall be authorized by the juvenile court judge of Elmore County.

Section 2. The provisions of this act are severable. If any part of this act is declared invalid or unconstitutional, that declaration shall not affect the part which remains.

Section 3. All laws or parts of laws which conflict with this act are repealed.

Section 4. This act shall become effective 30 days after its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved May 13, 1993

Time: 3:04 P.M.

Act No. 93-565

H. 946 – Rep. Haynes

AN ACT

Relating to Talladega County; to authorize the county governing body of Talladega County to increase the expense allowance of the Sheriff during the present term of office of the Sheriff; and to establish a commensurate increase in the salary of the Sheriff at the beginning of the next term of office and a termination of the expense allowance at the end of the present term of office of the Sheriff.

Be It Enacted by the Legislature of Alabama:

Section 1. The county governing body of Talladega County may increase the expense allowance of the Sheriff of Talladega

County up to a total amount of ten thousand dollars (\$10,000) per year during the present term of office of the Sheriff.

Section 2. At the end of the present term of office of the Sheriff of Talladega County, the expense allowance granted to the Sheriff pursuant to this act shall terminate.

Section 3. At the beginning of the next term of office of the Sheriff of Talladega County, the annual salary of the Sheriff shall increase by an amount equivalent to the amount of the annual expense allowance granted to the Sheriff pursuant to this act at the end of the present term of office.

Section 4. The provisions of this act are severable. If any part of this act is declared invalid or unconstitutional, that declaration shall not affect the part which remains.

Section 6. All laws or parts of laws which conflict with this act are repealed.

Section 5. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved May 13, 1993

Time: 3:05 P.M.

Act No. 93-566

H. 937 – Rep. Blakeney

AN ACT

To alter, rearrange, and extend the boundary lines and corporate limits of the municipality of Demopolis in Marengo County.

Be It Enacted by the Legislature of Alabama:

Section 1. The boundary lines and corporate limits of the municipality of Demopolis in Marengo County are altered, rearranged, and extended to include within the corporate limits of the municipality, in addition to the lands now included, all of the following territory: Commencing at a spike found in the center of Rangeline Road (Marengo County Highway No. 21) at the Northwest corner of Section 6; Township 17 North, Range 3 East; Marengo County, Alabama (Township Corner); Thence, East for a distance of 40.00 feet to the East Right-of-Way line of said Highway No. 21; Thence South along said East Right-of-Way line of said Highway No. 21 and parallel with the Range line for a distance of 1842.00 feet to an iron rod with survey cap set at the intersection of said East Right-of-Way line with the North line of the Turpin Vise property as described by deed recorded in the Marengo County Probate Office, Linden, Alabama, in

Deed Book 7F; Page 539; Thence, South along said East Right-of-Way line for a distance of 392.42 feet to an iron rod with survey cap set at the Point of Beginning of the herein described tract of land; Thence, from said Point of Beginning, East for a distance of 217.80 feet to an iron rod with survey cap (set); Thence, North for a distance of 342.42 feet to an iron rod with survey cap (set); Thence, East for a distance of 834.84 feet to an iron rod with survey cap (set); Thence South for a distance of 834.84 feet to an iron rod with survey cap (set); Thence West for a distance of 834.84 feet to an iron rod with survey cap (set); Thence West for a distance of 834.84 feet to an iron rod with survey cap (set); Thence North for a distance of 392.42 feet to an iron rod with survey cap (set); Thence West for a distance of 217.80 feet to an iron rod with survey cap set on the East Right-of-Way line of afore-said Highway No. 21; Thence North along said East Right-of-Way line for a distance of 100.00 feet to the Point of Beginning. Lying and being situate partly in the SW-1/4 of NW-1/4 and partly in the NW-1/4 of SW-1/4; all in Section 6; Township 17 North; Range 3 East; Marengo County, Alabama; containing 16.50 Acres, more or less.

Section 2. In accordance with Section 11-42-6(b) of the Code of Alabama 1975, a map showing what territory is proposed to be annexed to the municipality of Demopolis is on file in the office of the Judge of Probate in Marengo County, Alabama, and the map is open to the inspection of the public.

Section 3. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved May 13, 1993

Time: 3:06 P.M.

Act No. 93-567

H. 372 – Rep. Biddle

AN ACT

Relating to the Tenth Judicial Circuit in Jefferson County, amending Act No. 90-542, Regular Session, so as to increase the number of Deputy District Attorneys in said circuit.

Be It Enacted by the Legislature of Alabama:

Section 1. In the Tenth Judicial Circuit in Jefferson County, Sections 1, 2 and 4 of Act No. 90-542, 1990 Regular Session, are hereby amended to read as follows:

“Section 1. In the Tenth Judicial Circuit of Alabama, Birmingham Division, the District Attorney of said circuit shall be

authorized to appoint thirty (30) Deputy District Attorneys. Such Deputy District Attorneys appointed pursuant to this act shall be qualified to practice law in the courts of this State, and shall serve at the pleasure of the appointing District Attorney. Such Deputy District Attorneys shall be state officers and shall perform such duties in the circuit as the District Attorney may require.

“Section 2. The District Attorney shall be authorized to designate one (1) Deputy District Attorney to serve as Chief Deputy District Attorney, five (5) Deputy District Attorneys to serve as Level #1 Deputy District Attorneys, nine (9) Deputy District Attorneys to serve as Level #2 Deputy District Attorneys, and nine (9) Deputy District Attorneys to serve as Level #3 Deputy District Attorneys.

“Section 4. The annual compensation to be paid the Chief Deputy District Attorney, each of the five (5) Deputy District Attorneys designated as Level #1 Deputy District Attorneys, each of the nine (9) Deputy District Attorneys designated as Level #2 Deputy District Attorneys, and each of the nine (9) Deputy District Attorneys designated as Level #3 Deputy District Attorneys shall be as provided in the schedule of salaries hereinbelow set out. Of the total annual compensation to be paid each of the aforementioned twenty-four (24) Deputy District Attorneys, each shall be paid an annual salary by the State of Alabama of \$15,000.00, payable from the general funds of the state in equal installments as the salaries of other state officers are paid. The remainder of the annual compensation as provided in the schedule of salaries hereinbelow set out, of each of the aforementioned twenty-four (24) Deputy District Attorneys, shall be paid by the county within said Tenth Circuit which sum shall be paid from the general funds of said county, in equal semimonthly installments as the salaries of other county officers are paid.”

Section 2. This act shall become effective upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved May 13, 1993

Time: 3:07 P.M.

Act No. 93-568

H. 886 – Rep. Williams

AN ACT

Relating to the City of Daleville in Dale County; providing for the manner of electing the members of the city council; removing the designation of place number for a council member; providing method of voting for council members; providing for the elimination of runoff elections; prescribing that, except as provided, the continuation of all other laws, resolutions, or ordinances governing the operation of the city council and its members.

Be It Enacted by the Legislature of Alabama:

Section 1. Notwithstanding any law, whether special, local, general, or municipal ordinance, to the contrary, pursuant to Civil Action No. 85-T-1332-N, U. S. District Court for the Middle District Northern Division Federal Court Order, the City of Daleville in Dale County, shall not designate by place number or by other similar method seats for its city council.

Section 2. The city council of the City of Daleville, Alabama, shall consist of five members elected at large, without designated or numbered places. In the election of members of the city council, the five candidates receiving the highest number of votes shall be elected to the council. There shall be no runoff election. In the event of a tie vote for the fifth highest receiving votes, the winner shall be selected by a majority vote of the newly elected mayor and council. In the election for members of the city council, each qualified voter shall be entitled to vote for any number of candidates from one to five, as he or she chooses, but may cast no more than one vote for a candidate.

Section 3. The requirement for office, application for candidacy, and the fees shall continue to be set by resolution of the city council. It is expressly provided that all other provisions of law and ordinances relating to elections for city council members shall remain effective and, except as provided, the office of city council member and the operation of the governing body of Daleville, Alabama, shall continue as otherwise provided by law.

Section 4. The provisions of this act are severable. If any part of this act is declared invalid or unconstitutional, that declaration shall not affect the part which remains.

Section 5. All laws or parts of laws which conflict with this act are repealed.

Section 6. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved May 13, 1993

Time: 3:08 P.M.

Act No. 93-569

H. 613 – Rep. Carothers

AN ACT

To amend Section 11-42-5 of the Code of Alabama 1975, by providing for the validation of annexation by Class 5 municipalities.

Be It Enacted by the Legislature of Alabama:

Section 1. Section 11-42-5 of the Code of Alabama 1975, is amended to read as follows:

"11-42-5.

"Every annexation undertaken prior to February 1, 1993, under any statutory procedure for annexation by any Class 5 municipality and which the annexation procedure has been completed, notwithstanding any irregularity or defect in the procedure, shall be and is hereby ratified and confirmed and given effect in all respects as if all provisions of law relating to the annexation proceeding had been duly and legally complied with; provided, that this section shall not apply to any annexation or attempted annexation which, prior to the enactment of this section, has been held invalid by the Supreme Court of Alabama or by the Court of Civil Appeals of Alabama or by a final judgment of the circuit court in the county in which the annexation was completed and from which judgment an appeal was not taken to the Supreme Court of Alabama or the Court of Civil Appeals of Alabama within the time provided by law for taking appeals, or to any annexation the validity of which is an issue in a pending action commenced prior to February 1, 1993."

Section 2. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved May 13, 1993

Time: 3:09 P.M.

Act No. 93-570

H. 704 – Reps. Carothers, Mathis

AN ACT

Relating to any Class 5 municipality; providing for the appointment of the city board of education from districts corresponding to the city governing body districts and the manner of their appointment and one from the city at-large, appointed by the mayor.

Be It Enacted by the Legislature of Alabama:

Section 1. The governing body of any Class 5 municipality may, by resolution, provide for the appointment of the city board of education from districts corresponding to the city governing body districts and the manner of appointment, the appointment of one

member from the city at-large by the mayor, and the length of terms of the board members.

Section 2. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved May 13, 1993

Time: 3:10 P.M.

Act No. 93-571

H. 859 – Rep. Melton

AN ACT

Relating to Tuscaloosa County; to provide for the levy, collection, and distribution of an additional county privilege, license, or excise tax on the sale, distribution, storage, use, or other consumption of tobacco and certain tobacco products in the county, and providing for the collection and enforcement of the tax, and distribution of the proceeds therefrom.

Be It Enacted by the Legislature of Alabama:

Section 1. Upon the adoption of a resolution, the Tuscaloosa County Commission may impose upon every person, firm, or corporation who sells, stores, delivers, uses, or otherwise consumes tobacco or certain tobacco products in Tuscaloosa County a county privilege, license, or excise tax in the following amounts:

(1) Five cents (\$.05) for each package of cigarettes, made of tobacco or any substitute therefor.

(2) Five cents (\$.05) for each cigar of any description made of tobacco or any substitute therefor, with the exception of the cigarette-sized or near-cigarette-sized cigars which shall be taxed at the same rate as cigarettes under subdivision (1).

(3) Five cents (\$.05) for each sack, can, package, or other container of smoking tobacco, including granulated, plug, cut, crimp cut, ready rubbed, and other kinds and forms of tobacco which are prepared in a manner as to be suitable for smoking in a pipe or cigarette.

(4) Five cents (\$.05) for each sack, plug, package, or other container of chewing tobacco, which tobacco is prepared in a manner as to be suitable for chewing only and not suitable for smoking as described in subdivision (3).

(5) Five cents (\$.05) for each can, bottle, glass, tumbler, package, or other container of snuff made of tobacco or any substitute therefor.

(6) Five cents (\$.05) for each package of tobacco paper, both gummed and ungummed.

The tax shall be in addition to all other federal, state, or local taxes imposed by law.

When the tax authorized to be levied pursuant to this act has been paid by a wholesaler or seller of cigarettes, cigars, snuff, smoking tobacco, and like tobacco products, the payment shall be sufficient, the intent being that the tax shall be paid but once on each package of cigarettes, each package of cigarette-sized or near-cigarette-sized cigars, each cigar, and on each sack, can, bottle, glass, tumbler, plug, package, or other container of smoking tobacco, chewing tobacco, or snuff.

Section 2. Upon the adoption of a resolution by the Tuscaloosa County Commission, every person, firm, corporation, club, or association that sells, stores, or receives for the purpose of distributing, in Tuscaloosa County, any cigarettes, cigars, snuff, smoking tobacco, and like tobacco products shall add the amount of the tax which is authorized to be levied to the price of the cigarettes, cigars, snuff, and smoking tobacco products, it being the purpose and intent of this provision that the tax authorized to be levied is, in fact, a levy on the consumer with the person, firm, corporation, club, or association, who sells, stores, or receives for the purpose of distributing the cigarettes, cigars, snuff, smoking tobacco products, acting merely as the agent for the collection of the tax. The dealer, storer, or distributor shall state the amount of the tax separately from the price of the cigarettes, cigars, snuff, smoking tobacco, and like tobacco products, on all price display signs, sales or delivery slips, bills, and statements which advertise or indicate the price of the cigarettes, cigars, snuff, smoking tobacco, and like tobacco products.

Section 3. It is unlawful for any dealer, storer, or distributor engaged in or continuing in Tuscaloosa County in the business for which the tax is authorized to be levied to fail or refuse to add to the sales price and collect from the purchaser the amount due or to refund or offer to refund all or any part of the amount collected or absorb or advertise directly or indirectly the absorption of the tax or any portion thereof. Any person, firm, corporation, club, or association violating this section shall be subject to a civil penalty of not less than one hundred dollars (\$100) nor more than one thousand dollars (\$1,000). Each act in violation of this section constitutes a separate offense.

Section 4. Upon the adoption of a resolution by the Tuscaloosa County Commission so stating, the State Department of Revenue shall collect all tobacco taxes authorized to be levied pursuant to this act, provided that the resolution shall state that the imposition of the tax shall commence on the first day of the third month following the receipt and approval of the resolution by the Commissioner of Revenue.

(a) The tax authorized to be levied shall be paid by affixing stamps as required for the payment of the tax imposed by Sections 40-25-1 to 40-25-28, inclusive, Code of Alabama 1975.

(b) The State Department of Revenue shall have the same duties relative to the preparation and sale of stamps to evidence the payment of the tax that it has relative to the preparation and sale of stamps and may exercise the same powers and perform the same duties in the same manner relative to the collection of the tax authorized to be levied that it does relative to the collection of that tax, for as long as it is authorized and directed to do so under the aforementioned resolution.

(c) In accordance with Section 40-25-2(g), Code of Alabama 1975, in the event the tobacco stamps are not available for affixing to tobacco products, packages, and containers, or by the authority of the duly promulgated regulation eliminating the requirement of affixing county tobacco stamps, the Commissioner of Revenue may require a monthly report in lieu of stamps to report the amount of tax due. The monthly report shall be in a form approved by the Commissioner of Revenue, and adopted by the Department of Revenue under the Alabama Administrative Procedure Act, Title 41, Chapter 22 of the Code of Alabama 1975.

(d) The department shall promulgate and enforce rules and regulations to effectuate the purposes of this act. All rules and regulations duly promulgated shall have the force and effect of law.

Section 5. All laws, rules, and regulations of the Department of Revenue, relating to the manner and time of payment of the tax levied by Sections 40-25-1 to 40-25-28, inclusive, Code of Alabama 1975, requiring reports from dealers and prescribing penalties for violations shall apply with equal force to the tax authorized to be levied by this act.

Section 6. The proceeds from the tax authorized, less the actual cost of collection, not to exceed 10 percent, shall be paid by the State Department of Revenue to the Tuscaloosa County Commission with the proceeds to be expended for the construction and maintenance of a county jail, and for related law enforcement activities.

Section 7. This act shall not be construed to apply to cigarettes, cigars, snuff, smoking tobacco, and like tobacco products stored by a wholesale dealer for the purpose of resale or reshipment outside of the county which are actually resold or reshipped.

Section 8. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved May 13, 1993

Time: 3:11 P.M.

Act No. 93-572

H. 966 – Reps. McMillan, Penry

AN ACT

Relating to Baldwin County; to provide an additional expense allowance for the coroner of the county.

Be It Enacted by the Legislature of Alabama:

Section 1. The coroner of Baldwin County shall receive an additional expense allowance not to exceed six hundred dollars (\$600) per month, the amount of which shall be determined by the county governing body and paid from the county general fund.

The expense allowance shall be in addition to any salary and other expense allowance heretofore provided to the coroner, including the expense allowance provided in Act No. 79-653, H. 981, 1979 Regular Session.

Section 2. Beginning with the expiration of the term of the incumbent coroner, the salary for the coroner shall be increased by the amount of the then existing expense money allowable, payable in equal monthly installments from the general fund of the county and at that time Section 1 shall become null and void.

Section 3. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved May 13, 1993

Time: 3:12 P.M.

Act No. 93-573

H. 991 – Reps. Penry, McMillan

AN ACT

Relating to Baldwin County; authorizing the county commission to levy an additional ad valorem tax pursuant to Amendment No. 319 to the Constitution of Alabama of 1901, for library purposes; and providing for a referendum.

Be It Enacted by the Legislature of Alabama:

Section 1. Pursuant to Amendment No. 319 to the Constitution of Alabama of 1901, the Baldwin County Commission may levy, in addition to any other tax, an ad valorem tax in the amount of one mill on each dollar of taxable property in the county, beginning with the tax year commencing October 1, 1993. Monies realized from this tax will be used to meet minimum requirements, standards, and guidelines of each library's respective governing bodies and to encourage resource and information sharing through a mutual library network

including public, school and college libraries, and to provide for expanding technology in order to improve access to information. Funds shall be distributed as follows:

- (1) Ten percent to Faulkner State Community College.
- (2) Thirty percent to the Baldwin County Board of Education to be distributed to each school library, based on enrollment and shall be in addition to and not in lieu of other funds.
- (3) Thirty percent to be divided among the municipalities having a municipal library or hereafter establishing a municipal library based on the population of each municipality having a municipal library according to the most recent federal census.
- (4) Thirty percent to the Baldwin County Library System. Each agency shall be accountable through recognized auditing procedures to the public through the county commission.

Section 2. The increase in the rate of the tax as provided by this act is subject to the approval of a majority of the qualified electors of the county who vote on the proposed increase at the next general, primary, constitutional, or special election held at the discretion of the county commission for that purpose. Upon approval, the tax shall be collected beginning on the first day of October following the approval.

Section 3. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved May 13, 1993

Time: 3:13 P.M.

Act No. 93-574

H. 272 – Rep. Harper

AN ACT

To make appropriations to the Department of Youth Services for the fiscal year ending September 30, 1994.

Be It Enacted by the Legislature of Alabama:

Section 1. There is hereby appropriated to the department of Youth Services for the fiscal year ending September 30, 1994, the following amounts from the Alabama Special Educational Trust Fund (ASETF) and Federal and Local Funds:

	ASETF	Federal and Local Funds	Total
YOUTH SERVICES, DEPARTMENT OF:			
(a) Youth Services Program....			15,380,514
SOURCE OF FUNDS:			
(1) ASETF	13,979,334		
(2) Federal and Local Funds...		1,401,180	
Total Department of Youth Services.....	13,979,334	1,401,180	15,380,514

In addition to the above appropriation there is hereby appropriated to the Department of Youth Services for the fiscal year ending September 30, 1994 five million dollars (\$5,000,000) from the Alabama Special Educational Trust Fund, conditioned upon final settlement of the A.W. v. Phyfer lawsuit.

Section 2. The above appropriations are made for educational purposes which shall include but shall not be limited to providing social and educational services plus facilities to youth referred to the program and providing for the education of such individuals including educating youth to turn away from a life of crime.

Section 3. The Department of Youth services is hereby authorized to make a transfer to the State Personnel Department in the amount authorized in the General Appropriation Bill for fiscal year 1993-94.

Section 4. The provisions of this act are severable. If any part of this act is declared invalid or unconstitutional, such declaration shall not affect the part which remains.

Section 5. This Act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved May 13, 1993

Time: 3:14 P.M.

Act No. 93-575

H. 81 – Reps. Rogers (J), McDowell, McClain,
Barnes

AN ACT

To appropriate \$100,000 from the Special Educational Trust Fund in the State Treasury to the Minority Business Training Development Program at UAB for the 1993-94 fiscal year.

Be It Enacted by the Legislature of Alabama:

Section 1. The sum of one hundred thousand dollars (\$100,000) is appropriated from the Special Educational Trust Fund in the State Treasury to the Minority Business Training Development Program at the University of Alabama in Birmingham for the 1993-94 fiscal year.

Section 2. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved May 13, 1993

Time: 3:15 P.M.

Act No. 93-576

H. 274 – Rep. Harper

AN ACT

To make an appropriation to the Space Science Exhibit Commission for the fiscal year ending September 30, 1994, for educational purposes.

Be It Enacted by the Legislature of Alabama:

Section 1. There is hereby appropriated to the Space Science Exhibit Commission for the Special Services Program from the Alabama Special Educational Trust Fund for the fiscal year ending September 30, 1994 the sum of Four hundred forty-eight thousand eight hundred sixty-four dollars (\$448,864).

Section 2. The above appropriation is for educational purposes which shall include but shall not be limited to the operation of the Space Camp Program and educating the general public in the various aspects of space exploration through the display of space hardware and other visual exhibits and training in space exploration.

Section 3. The provisions of this Act are severable. If any section, paragraph, sentence, clause, provision or portion of this Act or all or any portion of any appropriation or appropriations herein made be held unconstitutional or invalid, such holding shall not affect any other section, paragraph, sentence, clause, provision or portion of this Act or any other appropriation or appropriations or portion thereof hereby made.

Section 3. This Act shall become effective October 1, 1993.

Approved May 13, 1993

Time: 3:16 P.M.

Act No. 93-577

H. 275 – Rep. Harper

AN ACT

To make an appropriation from the Alabama Special Educational Trust Fund to the Governor's Commission on Physical Fitness for the fiscal year ending September 30, 1994.

Be It Enacted by the Legislature of Alabama:

Section 1. There is hereby appropriated to the Governor's Commission on Physical Fitness for the fiscal year ending September 30, 1994, the sum of two hundred sixty-one thousand four hundred and fifty-two dollars (\$261,452) out of the funds in the Alabama Special Educational Trust Fund.

Section 2. The above appropriation is made for educational purposes which shall include but shall not be limited to maintaining liaison with the State Department of Education, boards of education and private and parochial schools; advising on such programs of physical fitness; promoting physical fitness education for the mentally retarded and physically handicapped and providing for physical educational facilities.

Section 3. The Governor's Commission on Physical Fitness is hereby authorized to make a transfer to the State Personnel Department in the amount authorized in the General Appropriation Bill for fiscal year 1993-94.

Section 4. This act shall become effective on October 1, 1993.

Approved May 13, 1993

Time: 3:17 P.M.

Act No. 93-578

H. 276 – Rep. Harper

AN ACT

To make an appropriation to the Department of Public Health for the fiscal year ending September 30, 1994, for educational purposes.

Be It Enacted by the Legislature of Alabama:

Section 1. There is hereby appropriated to the Department of Public Health from the Alabama Special Educational Trust Fund for the fiscal year ending September 30, 1994, the sum of five million three hundred fifty-two thousand one hundred fifty-nine dollars (\$5,352,159).

- (a) Health Support Services Program1,527,795
The above appropriation shall be expended for the continuation of the programs in Public School Sanitation, immunization activities at the county level and child health.
- (b) Personal Health Services Program.....2,897,539
The above appropriation shall be expended for continuation of the programs for immunization of pre-school children and students, dental health and nursing services.
- (c) Administrative Services Program526,825
The above appropriation shall be expended for the continuation of the program on Primary Preventive Health Education.
- (d) Rural Nurses Training Program.....400,000

Section 2. The above appropriation is for educational purposes which shall include but not be limited to providing for public school food sanitation, mandated immunization of pre-school children and primary preventive health education.

Section 3. The provisions of this act are severable. If any section, paragraph, sentence, clause, provision, or portion of the act or all or any portion of any appropriation or appropriations herein made be held unconstitutional or invalid, such holding shall not affect any other section, paragraph, sentence, clause, provision or portion of this Act or any other appropriation or appropriations or portion thereof hereby made.

Section 4. This act shall become effective on October 1, 1993.

Approved May 13, 1993

Time: 3:18 P.M.

Act No. 93-579

H. 225 – Rep. Harper

AN ACT

To make an appropriation from the Alabama Special Educational Trust Fund to the Helen Keller Eye Research Foundation for the fiscal year ending September 30, 1994, and to require an operations plan and audited financial statement prior to release of any funds.

Be It Enacted by the Legislature of Alabama:

Section 1. For the fiscal year ending September 30, 1994, there is hereby appropriated to the Helen Keller Eye Research Foundation, the sum of three hundred seven thousand six hundred fifteen dollars (\$307,615), from the Alabama Special Educational Trust Fund, to be used for support and maintenance.

Section 2. Prior to release of any funds appropriated under this bill for fiscal year 1993-94, an operations plan for fiscal year 1993-94 and an audited financial statement for all operations during fiscal year 1991-92 must be forwarded to the Director of Finance. It is the intent to release fiscal year 1993-94 funds following receipt of these reports.

Section 3. This act shall become effective on October 1, 1993.

Approved May 13, 1993

Time: 3:19 P.M.

Act No. 93-580

H. 230 – Rep. Harper

AN ACT

To make an appropriation from the Alabama Special Educational Trust Fund to the Kate Duncan Smith DAR School, for the fiscal year ending September 30, 1994 and to require an operations plan and audited financial statement prior to release of any funds.

Be It Enacted by the Legislature of Alabama:

Section 1. For the fiscal year ending September 30, 1994, there is hereby appropriated to the Kate Duncan Smith DAR School from the Alabama Special Educational Trust Fund, the sum of \$35,000.

Section 2: Prior to release of any funds appropriated under this bill for fiscal year ending September 30, 1994, an operations plan for fiscal year 1993-94 and an audited financial statement for all operations during fiscal year 1991-92 must be forwarded to the Director of Finance. It is the intent to release fiscal year 1993-94 funds following receipt of these reports.

Section 3. This act shall become effective on October 1, 1993.

Approved May 13, 1993

Time: 3:20 P.M.

Act No. 93-581

H. 239 – Rep. Harper

AN ACT

To make an appropriation from the Alabama Special Educational Trust Fund to the United Cerebral Palsy of Alabama, Inc., the United Cerebral Palsy Development Center for East Central Alabama, the Simpson-May Cerebral Palsy Center, the Cerebral Palsy Housing Foundation, the United Cerebral Palsy of Huntsville and Tennessee Valley, Inc., the United Cerebral Palsy of Alabama Incorporated - for Etowah County, and the United Cerebral Palsy of Mobile for the fiscal year ending September 30, 1994 and to require an operations plan and audited financial statement prior to release of any funds.

Be It Enacted by the Legislature of Alabama:

Section 1. There is hereby appropriated for the fiscal year ending September 30, 1994, the sum of nine hundred forty nine thousand five hundred seventy-nine dollars (\$949,579) out of the funds in the Alabama Special Educational Trust Fund to the following:

- (a) United Cerebral Palsy
of Alabama, Inc.\$500,000
- (b) United Cerebral Palsy Development
Center for East Central Alabama\$132,000
- (c) Simpson-May Cerebral Palsy Center\$132,000
- (d) Cerebral Palsy Housing Foundation\$50,000
- (e) United Cerebral Palsy of Huntsville
and Tennessee Valley, Inc.....\$25,000
- (f) United Cerebral Palsy of Mobile.....\$60,579
- (g) United Cerebral Palsy of Alabama
Incorporated - for Etowah County\$50,000

Section 2. Prior to release of any funds appropriated under this bill for fiscal year 1993-94, an operations plan for fiscal year 1993-94 and an audited financial statement for all operations during fiscal year 1991-92 must be forwarded to the Director of Finance. It is the intent to release fiscal year 1993-94 funds following receipt of these reports.

Section 3. This Act shall become effective October 1, 1993.

Approved May 13, 1993

Time: 3:21 P.M.

Act No. 93-582

H. 229 – Rep. Harper

AN ACT

To make an appropriation to the Project DARE and the DON'T - Madison County drug education programs for the fiscal year ending September 30, 1994, and to require an operations plan and audited financial statement prior to release of any funds.

Be It Enacted by the Legislature of Alabama:

Section 1. There is hereby appropriated for the fiscal year ending September 30, 1994, the sum of five hundred eighty-nine

thousand three hundred and thirty-nine dollars (\$589,339), out of the funds in the Alabama Special Educational Trust Fund to be used for the support and maintenance of the following drug education programs:

(a) Project DARE - Huntsville	300,346
(b) Project DARE - Birmingham	162,673
(c) Project DARE - Bessemer	26,320
(d) Project DARE - Vestavia Hills	15,000
(e) Project DARE - Hoover	15,000
(f) DON'T - Madison County	50,000
(g) Project DARE - Northeast Alabama	20,000

Section 2. The above appropriated funds are to be expended for instruction and materials related to drug education in the public schools.

Section 3. Prior to release of any funds appropriated under this bill for fiscal year 1993-94, an operations plan for fiscal year 1993-94 and an audited financial statement for all operations during fiscal year 1991-92 must be forwarded to the Director of Finance. It is the intent to release fiscal year 1993-94 funds following receipt of these reports.

Section 4. The provisions of this act are severable. If any part of this act is declared invalid or unconstitutional, such declaration shall not affect the part that remains.

Section 5. This act shall become effective on October 1, 1993.

Approved May 13, 1993

Time: 3:22 P.M.

Act No. 93-583

H. 228 – Rep. Harper

AN ACT

To make an appropriation from the Alabama Special Educational Trust Fund to the East Alabama Child Development Center, for the fiscal year ending September 30, 1994 and to require an operations plan and audited financial statement prior to release of any funds.

Be It Enacted by the Legislature of Alabama:

Section 1. For the fiscal year ending September 30, 1994, there is hereby appropriated to the East Alabama Child Development

Center from the Alabama Special Educational Trust Fund, the sum of one million one hundred thirty thousand one hundred ninety-six dollars (\$1,130,196).

Section 2: Prior to release of any funds appropriated under this bill for fiscal year ending September 30, 1994, an operations plan for fiscal year 1993-94 and an audited financial statement for all operations during fiscal year 1991-92 must be forwarded to the Director of Finance. It is the intent to release fiscal year 1993-94 funds following receipt of these reports.

Section 3. This act shall become effective on October 1, 1993.

Approved May 13, 1993

Time: 3:23 P.M.

Act No. 93-584

H. 236 – Rep. Harper

AN ACT

To make an appropriation from the Alabama Special Educational Trust Fund to the Children's Hospital in Birmingham, Alabama, for the fiscal year ending September 30, 1994 and to require an operations plan and audited financial statement prior to release of any funds.

Be It Enacted by the Legislature of Alabama:

Section 1. For the fiscal year ending September 30, 1994, there is hereby appropriated to the Children's Hospital in Birmingham, Alabama for the support and maintenance of said program from the Alabama Special Educational Trust Fund, the sum of six hundred thirty-three thousand five hundred twenty-two dollars (\$633,522).

Section 2: Prior to release of any funds appropriated under this bill for fiscal year ending September 30, 1994, an operations plan for fiscal year 1993-94 and an audited financial statement for all operations during fiscal year 1991-92 must be forwarded to the Director of Finance. It is the intent to release fiscal year 1993-94 funds following receipt of these reports.

Section 3. This act shall become effective on October 1, 1993.

Approved May 13, 1993

Time: 3:24 P.M.

Act No. 93-585

H. 243 – Rep. Harper

AN ACT

To make an appropriation from the Alabama Special Educational Trust Fund for the support and maintenance of the Birmingham Children's Theatre for the fiscal year ending September 30, 1994, and to require an operations plan and audited financial statement prior to release of any funds.

Be It Enacted by the Legislature of Alabama:

Section 1. For the fiscal year ending September 30, 1994, there is hereby appropriated to the Birmingham Children's Theatre from the Alabama Special Educational Trust Fund, the sum of one hundred thousand dollars (\$100,000) to be used for the support and maintenance of said program.

Section 2. Prior to release of any funds appropriated under this bill for fiscal year ending September 30, 1994, an operations plan for fiscal year 1993-94 and an audited financial statement for all operations during fiscal year 1991-92 must be forwarded to the Director of Finance. It is the intent to release fiscal year 1993-94 funds following receipt of these reports.

Section 3. This act shall become effective on October 1, 1993.

Approved May 13, 1993

Time: 3:25 P.M.

Act No. 93-586

H. 241 – Rep. Harper

AN ACT

To make an appropriation from the Alabama Special Educational Trust Fund to the Black Belt Human Resource Development Center for the fiscal year ending September 30, 1994, and to require an operations plan and audited financial statement prior to release of any funds.

Be It Enacted by the Legislature of Alabama:

Section 1. There is hereby appropriated to the Black Belt Human Resource Development Center for the fiscal year ending September 30, 1994, the sum of forty-seven thousand dollars (\$47,000) out of the funds in the Alabama Special Educational Trust Fund.

Section 2. Prior to release of any funds appropriated under this bill for fiscal year 1993-94, an operations plan for fiscal year

1993-94 and an audited financial statement for all operations during fiscal year 1991-92 must be forwarded to the Director of Finance. It is the intent to release fiscal year 1993-94 funds following receipt of these reports.

Section 3. This act shall become effective on October 1, 1993.

Approved May 13, 1993

Time: 3:26 P.M.

Act No. 93-587

H. 250 – Rep. Harper

AN ACT

To make an appropriation from the Alabama Special Educational Trust Fund to the Central Alabama Opportunities Industrialization Center for the fiscal year ending September 30, 1994 and to require an operations plan and audited financial statement prior to release of any funds.

Be It Enacted by the Legislature of Alabama:

Section 1. For the fiscal year ending September 30, 1994, there is hereby appropriated to the Central Alabama Opportunities Industrialization Center from the Alabama Special Educational Trust Fund, the sum of one hundred twenty-five thousand dollars (\$125,000).

Section 2: Prior to release of any funds appropriated under this bill for fiscal year ending September 30, 1994 an operations plan for fiscal year 1993-94 and an audited financial statement for all operations during fiscal year 1991-92 must be forwarded to the Director of Finance. It is the intent to release fiscal year 1993-94 funds following receipt of these reports.

Section 3. This act shall become effective on October 1, 1993.

Approved May 13, 1993

Time: 3:27 P.M.

Act No. 93-588

H. 259 – Rep. Harper

AN ACT

To make an appropriation from the Alabama Special Educational Trust Fund to the Alabama YMCA Youth and Government for the fiscal year ending September 30, 1994, and to require a further distribution to Educational Resources, Inc. and an operations plan and audited financial statement prior to release of any funds.

Be It Enacted by the Legislature of Alabama:

Section 1. There is hereby appropriated for the fiscal year ending September 30, 1994, the sum of \$173,575 out of the funds in the Alabama Special Educational Trust Fund, to the Alabama YMCA Youth and Government. Of the above appropriation, the sum of \$23,575 shall be for use in their legislative and judicial programs and the sum of \$150,000 shall be allotted to Educational Resources, Inc.

Section 2. Prior to release of any funds appropriated under this bill for fiscal year 1993-94, an operations plan for fiscal year 1993-94 and an audited financial statement for all operations during fiscal year 1991-92 must be forwarded to the Director of Finance. It is the intent to release fiscal year 1993-94 funds following receipt of these reports.

Section 3. This act shall become effective on October 1, 1993.

Approved May 13, 1993

Time: 3:28 P.M.

Act No. 93-589

H. 261 – Rep. Harper

AN ACT

To make an appropriation from the Alabama Special Educational Trust Fund for the support and maintenance of Camp ASCCA, in Jackson Gap, Alabama for the fiscal year ending September 30, 1994, and to require an operations plan and audited financial statement prior to release of any funds.

Be It Enacted by the Legislature of Alabama:

Section 1. There is hereby appropriated for the fiscal year ending September 30, 1994, the sum of three hundred eleven thousand one hundred and fifty-three dollars (\$311,153), out of the funds in the Alabama Special Educational Trust Fund, to Camp ASCCA in Jackson Gap, Alabama, to be used for the support and maintenance of said facility.

Section 2. Prior to release of any funds appropriated under this bill for fiscal year 1993-94, an operations plan for fiscal year 1993-94 and an audited financial statement for all operations during fiscal year 1991-92 must be forwarded to the Director of Finance. It is the intent to release fiscal year 1993-94 funds following receipt of these reports.

Section 3. This act shall become effective on October 1, 1993.

Approved May 13, 1993

Time: 3:29 P.M.

Act No. 93-590

H. 264 – Rep. Harper

AN ACT

To make an appropriation from the Alabama Special Educational Trust Fund in memory of Representative John L. Buskey to the AIDS Task Force of Alabama, Incorporated, for the fiscal year ending September 30, 1994 for programs and services to help prevent the spread of AIDS and to require an operations plan and an audited financial statement.

Be It Enacted by the Legislature of Alabama:

Section 1. There is hereby appropriated the sum of \$260,305 from the Alabama Special Educational Trust Fund to the AIDS Task Force of Alabama, Incorporated, for the fiscal year ending September 30, 1994, for educational programs and services to help prevent the spread of AIDS. Funds appropriated herein are for disbursement to the various AIDS prevention community-based organizations in Alabama according to a plan to be developed by the Board of Directors of the AIDS Task Force of Alabama, Incorporated.

Section 2. The funds appropriated in this act or any funds hereinafter appropriated from the Alabama Special Educational Trust Fund to the Aids Task Force of Alabama, Incorporated shall be in honor of Representative John L. Buskey and shall be known as the John L. Buskey Appropriation.

Section 3. Prior to the release of any funds appropriated herein, an operations plan for fiscal year 1993-94 must be developed by the Board of Directors of the AIDS Task Force of Alabama, Incorporated, submitted to and approved by the State Health Department and the HIV Education Advisory Board and then forwarded to the Director of Finance. It is the intent of the legislature that the state Medicaid Commissioner should work with the AIDS Task Force of Alabama, Incorporated in applying for federal matching dollars for part of the appropriation contained in this act. The HIV Education Advisory Board shall consist of six members as follows: the state health officer or his designee; one assistant state health officer appointed by the state health officer; one

physician appointed by the Infectious Disease Society of Alabama who is selected from a list of physicians who routinely treat HIV infection; two representatives appointed by the American Red Cross of which one must be a health educator; and, the Chairperson of the AIDS Task Force of Alabama community-based organization committee. An audited financial statement of the expenditures shall be submitted to the state Finance Director at the end of the fiscal year.

Section 4. This act shall become effective on October 1, 1993.

Approved May 13, 1993

Time: 3:30 P.M.

Act No. 93-591

H. 258 – Rep. Harper

AN ACT

To make an appropriation from the Alabama Special Educational Trust Fund to the Cleveland Avenue YMCA, the Fourth Avenue YMCA and the Boys and Girls Club of Central Alabama, Inc. - Hueytown Unit for the fiscal year ending September 30, 1994, and to require an operations plan and audited financial statement prior to release of any funds.

Be It Enacted by the Legislature of Alabama:

Section 1. There is hereby appropriated for the fiscal year ending September 30, 1994 from the Alabama Special Educational Trust Fund the sum of \$24,438 to the following entities in the following amounts:

- a. Cleveland Avenue YMCA\$8,146
- b. Fourth Avenue YMCA\$8,146
- c. Boys and Girls Club of Central
Alabama, Inc. - Hueytown Unit\$8,146

Section 2. Prior to release of any funds appropriated under this bill for fiscal year 1993-94, an operations plan for fiscal year 1993-94 and an audited financial statement for all operations during fiscal year 1991-92 must be forwarded to the Director of Finance. It is the intent to release fiscal year 1993-94 funds following receipt of these reports.

Section 3. This act shall become effective on October 1, 1993.

Approved May 13, 1993

Time: 3:31 P.M.

Act No. 93-592

H. 253 – Rep. Harper

AN ACT

To make an appropriation for the support and maintenance of the Sickie Cell Education Program for the fiscal year ending September 30, 1994 and to require an operations plan and audited financial statement prior to release of any funds.

Be It Enacted by the Legislature of Alabama:

Section 1. There is hereby appropriated for the fiscal year ending September 30, 1994, the sum of nine hundred forty-three thousand nine hundred three dollars (\$943,903), out of the funds in the Alabama Special Educational Trust Fund to the Sickie Cell Education Program as follows:

- (a) Jefferson County Sickie Cell
Detection Committee, Inc.....\$215,745
- (b) Sickie Cell Disease Association of
Gulf Coast, Alabama\$198,665
- (c) Sickie Cell Foundation of
Greater Montgomery, Inc.....\$83,529
- (d) Southeast Alabama Sickie Cell
Association\$136,497
- (e) Tri-County West Central Alabama Sickie
Cell Anemia Association, Inc\$89,422
- (f) West Alabama Sickie Cell Program.....\$47,559
- (g) North Alabama Sickie Cell Program\$95,291
- (h) Children's Hospital of Birmingham.....\$41,132
- (i) Children's and Women's Hospital -
Comprehensive Sickie Cell Center\$36,063

Section 2. Prior to release of any funds appropriated under this bill for fiscal year 1993-94, an operations plan for fiscal year 1993-94 and an audited financial statement for all operations during fiscal year 1991-92 must be forwarded to the Director of Finance. It is the intent to release fiscal year 1993-94 funds following receipt of these reports.

Section 3. This Act shall become effective October 1, 1993.

Approved May 13, 1993

Time: 3:32 P.M.

Act No. 93-593

H. 869 – Rep. Powell

AN ACT

Relating to Autauga County; abolishing the office of constable; and providing an effective date.

Be It Enacted by the Legislature of Alabama:

Section 1. In Autauga County, the office of constable shall be abolished, pursuant to Section 36-23-1 of the Code of Alabama 1975. All assets, money, property, real or personal, equipment, and supplies belonging to the office shall be transferred to the county governing body for use or disposition as it shall deem proper for the county.

Section 2. The provisions of this act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved May 13, 1993

Time: 3:33 P.M.

Act No. 93-594

H. 814 – Reps. McKee, Hooper

AN ACT

Relating to Montgomery County; abolishing the office of constable; and providing an effective date.

Be It Enacted by the Legislature of Alabama:

Section 1. In Montgomery County, the office of constable shall be abolished, pursuant to Act No. 84-757, S. 112, First Special Session, 1984. All assets, money, property, real or personal, equipment and supplies belonging to such office shall be transferred to the county governing body for use or disposition as they shall deem proper for the county.

Section 2. This act shall become effective immediately to each office of constable as the present terms of office of that constable terminates upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved May 13, 1993

Time: 3:34 P.M.

Act No. 93-595

H. 265 – Rep. Harper

AN ACT

To make an appropriation for the support and maintenance of Walker County Junior College for the fiscal year ending September 30, 1994, and to require an operations plan prior to release of any funds.

Be It Enacted by the Legislature of Alabama:

Section 1. There is hereby appropriated for the fiscal year ending September 30, 1994, the sum of five hundred twenty-one thousand one hundred seventy-four dollars (\$521,174) from the Alabama Special Educational Trust Fund to Walker County Junior College.

Section 2. The Department of Examiners of Public Accounts is hereby authorized and empowered to audit the records of the said institution to the same extent, degree, and scope as its audits of public educational institutions, and said institution shall submit to the Legislature each year before any subsequent appropriation requests may be considered by the Legislature, a full accounting of its receipts, disbursements, assets, liabilities, and other resources as of the date of the close of its immediately preceding academic year.

Section 3. Prior to the release of any funds appropriated under this bill for fiscal year 1993-94 an operations plan for fiscal year 1993-94 must be forwarded to the Director of Finance. It is the intent to release fiscal year 1993-94 funds following receipt of this report.

Section 4. This Act shall become effective October 1, 1993.

Approved May 13, 1993

Time: 3:35 P.M.

Act No. 93-596

H. 267 – Rep. Harper

AN ACT

To make an appropriation for the support and maintenance of Talladega College for the fiscal year ending September 30, 1994, and to require an operations plan prior to release of any funds.

Be It Enacted by the Legislature of Alabama:

Section 1. There is hereby appropriated for the fiscal year ending September 30, 1994, the sum of (\$410,359) from the Alabama Special Educational Trust Fund to Talladega College.

Section 2. The Department of Examiners of Public Accounts is hereby authorized and empowered to audit the records of the said

institution to the same extent, degree, and scope as its audits of public educational institutions, and said institution shall submit to the Legislature each year before any subsequent appropriation requests may be considered by the Legislature, a full accounting of its receipts, disbursements, assets, liabilities, and other resources as of the date of the close of its immediately preceding academic year.

Section 3. Prior to the release of any funds appropriated under this bill for fiscal year 1993-94 an operations plan for fiscal year 1993-94 must be forwarded to the Director of Finance. It is the intent to release fiscal year 1993-94 funds following receipt of this report.

Section 4. This act shall become effective October 1, 1993.

Approved May 13, 1993

Time: 3:36 P.M.

Act No. 93-597

H. 269 – Rep. Harper

AN ACT

To make an appropriation for the support and maintenance of Marion Military Institute for the fiscal year ending September 30, 1994, and to require an operations plan prior to release of any funds.

Be It Enacted by the Legislature of Alabama:

Section 1. There is hereby appropriated for the fiscal year ending September 30, 1994, the sum of four hundred thirty-four thousand three hundred twelve dollars (\$434,312) from the Alabama Special Educational Trust Fund to Marion Military Institute.

Section 2. The Department of Examiners of Public Accounts is hereby authorized and empowered to audit the records of the said institution to the same extent, degree, and scope as its audits of public educational institutions, and said institution shall submit to the Legislature each year before any subsequent appropriation requests may be considered by the Legislature, a full accounting of its receipts, disbursements, assets, liabilities, and other resources as of the date of the close of its immediately preceding academic year.

Section 3. Prior to the release of any funds appropriated under this bill for fiscal year 1993-94 an operations plan for fiscal year 1993-94 must be forwarded to the Director of Finance. It is the intent to release fiscal year 1993-94 funds following receipt of this report.

Section 4. This Act shall become effective October 1, 1993.

Approved May 13, 1993

Time: 3:37 P.M.

Act No. 93-598

H. 270 – Rep. Harper

AN ACT

To make an appropriation for the support and maintenance of Lyman Ward Military Academy for the fiscal year ending September 30, 1994, and to require an operations plan prior to release of any funds.

Be It Enacted by the Legislature of Alabama:

Section 1. There is hereby appropriated for the fiscal year ending September 30, 1994, the sum of two hundred two thousand six hundred seventy-eight dollars (\$202,678) from the Alabama Special Educational Trust Fund to Lyman Ward Military Academy.

Section 2. The Department of Examiners of Public Accounts is hereby authorized and empowered to audit the records of the said institution to the same extent, degree, and scope as its audits of public educational institutions, and said institution shall submit to the Legislature each year before any subsequent appropriation requests may be considered by the Legislature, a full accounting of its receipts, disbursements, assets, liabilities, and other resources as of the date of the close of its immediately preceding academic year.

Section 3. Prior to the release of any funds appropriated under this bill for fiscal year 1993-94 an operations plan for fiscal year 1993-94 must be forwarded to the Director of Finance. It is the intent to release fiscal year 1993-94 funds following receipt of this report.

Section 4. This Act shall become effective October 1, 1993.

Approved May 13, 1993

Time: 3:38 P.M.

Act No. 93-599

H. 271 – Rep. Harper

AN ACT

To make an appropriation for the support and maintenance of the Coosa Valley Medical Center School of Nursing for the fiscal year ending September 30, 1994, and to require an operations plan prior to release of any funds.

Be It Enacted by the Legislature of Alabama:

Section 1. There is hereby appropriated for the fiscal year ending September 30, 1994, the sum of ninety-seven thousand nine hundred eighty-one dollars (\$97,981) from the Alabama Special Educational Trust Fund to the Coosa Valley Medical Center School of Nursing. The above appropriation shall be used to match federal funds as applicable under the Medicaid program.

Section 2. The Department of Examiners of Public Accounts is hereby authorized and empowered to audit the records of the said institution to the same extent, degree, and scope as its audits of public educational institutions, and said institution shall submit to the Legislature each year before any subsequent appropriation requests may be considered by the Legislature, a full accounting of its receipts, disbursements, assets, liabilities, and other resources as of the date of the close of its immediately preceding academic year.

Section 3. Prior to the release of any funds appropriated under this bill for fiscal year 1993-94 an operations plan for fiscal year 1993-94 must be forwarded to the Director of Finance. It is the intent to release fiscal year 1993-94 funds following receipt of this report.

Section 4. This Act shall become effective October 1, 1993.

Approved May 13, 1993

Time: 3:39 P.M.

Act No. 93-600

H. 48 – Rep. Laird

AN ACT

To further provide for the use of the proceeds of any special ad valorem tax for fire protection purposes levied pursuant to an amendment to the Constitution of Alabama of 1901 proposed at the 1993 Regular Session; to provide for use of the revolving fund to be administered by the State Treasurer paid fire departments or paid fire districts for an advisory board to advise the State Treasurer; and to provide for the dissolution of fire departments and formation of new fire departments receiving proceeds of the special ad valorem tax.

Be It Enacted by the Legislature of Alabama:

Section 1. Upon the approval by the qualified electors of the state of an amendment to the Constitution of Alabama of 1901, that was proposed by the act that was introduced as House Bill No. 21 at the 1993 Regular Session of the Legislature, the proceeds arising from the imposition of the special tax levied pursuant to that amendment shall be distributed on a percentage basis as follows:

(1) To be divided by the Alabama Forestry Commission among the paid fire departments and paid fire districts, that meet the same minimum requirements of a certified volunteer fire department, within the state on a per capita basis as determined by the population within the corporate limits in the case of municipal paid fire departments, and on a per capita basis for the area protected by paid fire departments other than municipal departments or paid fire districts, 22.676 percent of the proceeds. The population of the area protected in the case of paid fire departments other than municipal departments and paid fire districts shall be certified by the county commission of the county where the department is located. These proceeds are to be used only for the purchase of equipment, apparatus or buildings. These proceeds can not be used to pay salaries.

For the purpose of this act a paid fire department shall be defined as having at least sixty (60) percent of its active roster as full time paid fire fighters.

(2) To be divided as nearly equal as possible by the Alabama Forestry Commission among each individual department and fire station of the certified volunteer fire departments, paid municipal fire departments, and paid or volunteer fire districts within the state, 56.885 percent of the proceeds. The funds provided by this subdivision shall not be used to pay salaries.

For the purposes of this act a fire station of a paid municipal fire department or a paid fire district shall be defined as a separately located fire installation housing at least one Class "A" fire pumper that meets minimum Insurance Service Office standards for a Class "A" pumper and be manned by at least three fire fighters 24 hours a day. The number of stations for each department shall be certified by the mayor of the municipality in the case of a city and by the county commission in the case of paid fire districts.

For the purposes of this act a fire station of a certified volunteer department or volunteer fire district that meets the requirements of a certified volunteer department shall be defined as a separately located installation housing at least one Class "A" fire pumper that meets minimum Insurance Service Office standards for a Class "A" pumper. The number of stations for volunteer fire departments shall be certified by the Alabama Forestry Commission.

(2) To be allocated to Lawson State Community College for fire prevention and fire education programs, .60 percent of the proceeds.

(3) To be allocated to Jefferson State Community College for fire prevention and fire education programs, .60 percent of the proceeds.

(4) For implementation and operation of a revolving loan fund to be contained within the State Treasury for the benefit of certified volunteer fire departments, paid fire departments or paid fire districts in the state, 9.551 percent of the proceeds.

(5) For the Alabama Forestry Commission for use in its fire repression and prevention programs, 5.0 percent of the proceeds. In no event shall the proceeds herein be expended for or used by any private organization for any purpose, including legal costs.

(6) For the State Fire College, which is presently located at Shelton State Community College, 4.775 percent of the proceeds. Proceeds cannot be used for salaries.

Section 2. (a) The revolving loan fund for the use of the certified volunteer fire departments, paid fire departments or paid fire districts shall be administered by the State Treasurer and shall be used to provide low-interest loans for fire stations, trucks, and other large equipment purchases.

(b) An advisory board shall be established to advise the State Treasurer on the approval of loans and other functions of the revolving loan fund program for the certified volunteer fire departments paid fire departments or paid fire districts. The advisory board shall be composed of the following: one person appointed by the Governor of the State of Alabama from a list of names provided by the Forestry Commission; one person appointed by the Lieutenant Governor from a list of names provided by the Rural Community Fire Protection Institute; one person to be appointed by the Speaker of the House of Representatives from a list of names provided by the Alabama Association of Volunteer Fire Departments; and one person appointed by the Governor of the State of Alabama from a list of names provided by Alabama Fire Chiefs Association. The members of the advisory board shall be entitled to receive mileage and per diem to attend official meetings of the board to be paid from the funds of the revolving loan fund program at the same rate paid to state employees and the advisory board shall be limited to two (2) paid meetings per month. Each of the above terms shall be for a period of four (4) years.

(c) When the revolving loan fund reaches \$20,000,000, the additional proceeds for the operation of the revolving loan fund, exclusive of any interest earned, shall be paid to the Alabama Forestry Commission for distribution pursuant to subdivision (2) of Section (1) of this act.

Section 3. Proceeds from the special ad valorem tax for the State Fire College, presently located at Shelton State Community College, shall be used to build a new dormitory, drill field, and classrooms and for the training of fire fighters.

Section 4. (a) Proceeds from the special ad valorem tax shall not be used for any social activity or for fund-raising, and shall be subject to audit by the Examiners of Public Accounts.

Section 5. In the event that a fire department which has received funds from the proceeds of the special ad valorem tax dissolves, disbands, or ceases to exist, those assets obtained from funds provided by the tax remaining after any debts or liability has been satisfied shall be transferred to any new fire department formed to provide fire protection for the area previously covered by the disbanded fire department. In the event a new fire department is not formed to replace the disbanded fire department within one year, assets obtained from the proceeds of the special ad valorem tax shall be distributed as nearly equal as possible among all the other fire departments in that county by the county fire association.

Section 6. An additional fire department formed after passage of this act shall not share in the funds provided by the special ad valorem taxes, unless the need for the additional fire department is certified by at least fifty percent of the members in good standing of the county fire association.

Section 7. This act shall become effective upon the adoption of a constitutional amendment proposed by House Bill NO. 21 of the 1993 Regular Session levying a one mil ad valorem tax for fire protection purposes.

Approved May 13, 1993

Time: 3:40 P.M.

Act No. 93-601

H. 62 – Reps. Williams, Richardson, Hall

AN ACT

To provide for a certain civil immunity from liability arising out of the death or injury resulting from participating in equine-related activities; to provide exceptions; to provide for contractual and sign warnings; and to provide definitions of terms.

Be It Enacted by the Legislature of Alabama:

Section 1. The Legislature recognizes that persons who participate in equine activities may incur injuries as a result of the risks involved in those activities. The Legislature also finds that the state and its citizens derive numerous economic and personal benefits from equine activities. The Legislature finds, determines,

and declares that for the immediate preservation of the public peace, health, and safety, and to encourage equine activities, this legislation is to limit the civil liability of those involved in equine activities.

Section 2. As used in this act, the following words shall mean the following unless the context clearly indicates otherwise:

(1) **ENGAGES IN AN EQUINE ACTIVITY.** Riding, training, providing, or assisting in providing medical treatment of, driving, or being a passenger upon an equine, whether mounted or unmounted, or any person assisting a participant or show management in equine activities. The term does not include being a spectator at an equine activity, except in cases where the spectator places himself or herself in an unauthorized area and in immediate proximity to the equine activity.

(2) **EQUINE.** A horse, pony, mule, donkey, or hinny.

(3) **EQUINE ACTIVITY.** Any of the following:

a. Equine shows, fairs, competitions, performances, or parades that involve any or all breeds of equines and any of the equine disciplines, including, but not limited to: dressage, hunter and jumper horse shows, grand prix jumping, three-day events, combined training, rodeos, driving, pulling, cutting, polo, steeplechasing, English and western performance riding, endurance trail riding and western games, and hunting.

b. Equine training or teaching activities, or both.

c. Boarding equines.

d. Riding, inspecting, or evaluating an equine belonging to another, whether or not the owner has received some monetary consideration or other thing of value for the use of the equine or is permitting a prospective purchaser of the equine to ride, inspect, or evaluate the equine.

e. Rides, trips, hunts, or other equine activities of any type, however informal or impromptu, that are sponsored by an equine-activity sponsor.

f. Placing or replacing horseshoes on an equine.

g. Examining or administering medical treatment to an equine by a veterinarian.

(4) **EQUINE ACTIVITY SPONSOR.** An individual, group, club, partnership, or corporation, whether or not the sponsor is operating for profit or nonprofit, which sponsors, organizes, or provides the facilities for an equine activity, including, but not limited to: pony clubs, 4-H clubs, hunt clubs, riding clubs, school and college sponsored classes,

programs, and activities, therapeutic riding programs, and operators, instructors, and promoters of equine facilities, including, but not limited to, stables, clubhouses, ponyride strings, fairs, and arenas at which the activity is held.

(5) **EQUINE PROFESSIONAL.** A person engaged for compensation in:

a. Instructing a participant or renting to a participant an equine for the purpose of riding, driving, or being a passenger upon the equine.

b. Renting equipment or tack to a participant.

c. Examining or administering medical treatment to an equine as a veterinarian.

(6) **INHERENT RISKS OF EQUINE ACTIVITIES.** Those dangers or conditions which are an integral part of equine activities, including, but not limited to:

a. The propensity of an equine to behave in ways that may result in injury, harm, or death to persons on or around them.

b. The unpredictability of the reaction of an equine to sounds, sudden movement, and unfamiliar objects, persons, or other animals.

c. Certain hazards such as surface and subsurface conditions.

d. Collisions with other equines or objects.

e. The potential of a participant to act in a negligent manner that may contribute to injury to the participant or others, such as failing to maintain control over the animal or not acting within his or her ability.

(7) **PARTICIPANT.** Any person, whether amateur or professional, who engages in an equine activity, whether or not a fee is paid to participate in the equine activity.

Section 3. (a) Except as provided in subsections (b) and (c) of this section, an equine activity sponsor, an equine professional, or any other person, which shall include a corporation or partnership, shall not be liable for an injury to or the death of a participant resulting from the inherent risks of equine activities and, except as provided in subsections (b) and (c) of this section, no participant or representative of a participant shall make any claim against, maintain an action against, or recover from an equine-activity sponsor, an equine professional, or any other person for injury, loss, damage, or death of the participant resulting from any of the inherent risks of equine activities.

(b) Nothing in subsection (a) of this section shall prevent or limit the liability of an equine-activity sponsor, an equine professional, or any other person if the equine-activity sponsor, equine professional, or person:

(1) Provided the equipment or tack, and knew or should have known that the equipment or tack was faulty, and the equipment or tack was faulty to the extent that it did cause the injury.

(2) Provided the equine and failed to make reasonable and prudent efforts to determine the ability of the participant to engage safely in the equine activity and to safely manage the particular equine based on the participant's representations of his or her ability.

(3) Owns, leases, rents, or otherwise is in lawful possession and control of the land or facilities upon which the participant sustained injuries because of a dangerous latent condition which was known or should have been known to the equine-activity sponsor, equine professional, or person and for which warning signs have not been conspicuously posted.

(4) Commits an act or omission that constitutes willful or wanton disregard for the safety of the participant, and that act or omission caused the injury.

(5) Intentionally injures the participant.

(c) Nothing in subsection (a) of this section, shall prevent or limit the liability of an equine activity sponsor or an equine professional under liability provisions as set forth in the products liability laws.

Section 4. (a) Every equine professional and every equine-activity sponsor shall post and maintain signs which contain the warning notice specified in subsection (b) of this section. Signs shall be placed in a clearly visible location on or near stables, corrals, or areas where the equine professional or the equine-activity sponsor conducts equine activities. The warning notice specified in subsection (b) of this section shall appear on the sign in black letters, with each letter to be a minimum of one inch in height. Every written contract entered into by an equine professional or by an equine-activity sponsor for the providing of professional services, instruction, or the rental of equipment or tack or an equine to a participant, whether or not the contract involves equine activities on or off the location or site of the equine professional's or the equine-activity sponsor's business, shall contain in clearly readable print the warning notice specified in subsection (b) of this section.

(b) The signs and contracts described in subsection (a) of this section shall contain the following warning notice:

“WARNING

Under Alabama law, an equine activity sponsor or equine professional is not liable for an injury to or the death of a participant in equine activities resulting from the inherent risks of equine activities, pursuant to the equine activities liability protection act.”

(c) Failure to comply with the requirements concerning warning signs and notices provided in this section shall prevent an equine-activity sponsor or equine professional from invoking the privileges of immunity provided by this act.

Section 5. The provisions of this act are severable. If any part of this act is declared invalid or unconstitutional, that declaration shall not affect the part which remains.

Section 6. All laws or parts of laws which conflict with this act are repealed.

Section 7. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved May 13, 1993

Time: 3:41 P.M.

Act No. 93-602

S. 8 – Senator Foshee

AN ACT

To establish the Alabama Insurance Board to negotiate group health insurance coverage for all residents and their dependents of the State of Alabama who wish to acquire it and to make an appropriation.

Be It Enacted by the Legislature of Alabama:

Section 1. As used in this act, the following terms shall have the following meanings:

(1) **BOARD.** The Alabama Insurance Board created pursuant to this act.

(2) **INSURED.** Any resident of the State of Alabama who elects to be covered by the group health coverage insurance policy negotiated by the Alabama Insurance Board, regardless of eligibility for any other group or individual health insurance coverage.

Section 2. (a) The Alabama Insurance Board is established and shall consist of 12 members appointed as follows:

(1) Three members of the Alabama Senate appointed by the Lieutenant Governor.

(2) Three members of the Alabama House of Representatives appointed by the Speaker of the House of Representatives.

(3) Two members appointed by the Governor.

(4) One member appointed by the Attorney General.

(5) One member appointed by the Commissioner of the Department of Insurance.

(6) One member appointed by the Secretary-Treasurer of the Retirement Systems of Alabama.

(7) One member appointed by the State Health Officer.

(b) Members of the board shall serve terms of five years. In order that the appointments be staggered, two members shall serve initial terms of six years; two members shall serve initial terms of two years; two members shall serve initial terms of three years; two members shall serve initial terms of four years; and the remaining four members shall serve initial terms of five years. The initial terms shall be determined by lot. Thereafter, their successors shall be appointed to serve full five-year terms.

(c) Members shall not receive compensation, but shall be reimbursed for actual expenses incurred in the performance of their duties. The Department of Insurance shall provide any clerical or technical assistance needed by the board.

Section 3. The board may negotiate for and establish a health insurance plan for residents of the State of Alabama. The board shall adopt and promulgate rules and regulations for the administration of the plan, subject to any limitations contained in this act. The plan may provide for group hospitalization, surgical, and medical insurance.

Section 4. (a) The board shall execute a contract to provide the benefits under the plan of health insurance coverage and said contract shall be subject to the provisions of Section 27-1-10, Code of Alabama 1975.

(b) Before entering into any contract, the board may seek competitive bids from all qualified insurers who may wish to offer plans for the health insurance coverage desired. The board may award the contract on a competitive basis as determined by the benefits afforded, the costs to be incurred by the resident insured, the experience of the offering company or agency in the group health insurance field, and its facilities for the handling of claims. In evaluating these factors, the board may employ the services of impartial professional insurance analysts or actuaries.

(c) The contract executed by the board with the selected carrier shall be a contract to cover all residents of the state, regardless of eligibility for coverage under any other group plan. Notwithstanding the foregoing, insurance carriers shall not be prohibited from soliciting additional health and other types of insurance coverage with residents of the state.

(d) The board may authorize the carrier with whom the primary contract is executed to reinsure portions of the contract with other carriers which elect to be a reinsurer and who are legally qualified to enter into a reinsurance agreement under the laws of this state.

(e) Each insured who is covered under the contract shall receive a certificate setting forth the benefits to which the resident and his or her dependents are entitled, to whom benefits shall be payable, to whom claims shall be submitted, and a summary of the provisions of the contract as they affect the resident and his or her dependents.

Section 5. (a) The board shall require that the cost of any insurance benefit plan provided under this act shall be paid by the insured.

(b) Each insured shall be entitled to have his or her spouse and dependent children, included in the provided coverage upon agreeing to pay the costs of the dependent coverage.

(c) Any insured may have a portion of the costs or all costs of participating in the plan paid by his or her employer, if the employer is a "small business" as defined in Section 25-10-3(1), Code of Alabama 1975. The cost of dependent coverage may be paid by the small business employer. This subsection shall not be construed as mandating that a small business employer pay a portion or all of any costs of coverage.

Section 6. Any benefits payable under the plan adopted may be paid either directly to the attending physician, hospital, medical group, or others furnishing the service upon which the claim is based or to the insured resident upon presentation of valid bills for the services, subject to any regulations designed to facilitate payment as may be promulgated by the board. The board shall not adopt any regulation which directs, restricts, limits or controls the practice of a physician licensed to practice medicine and shall not establish or prescribe any protocol, guideline, or standard for the delivery of medical care to patients.

Section 7. The Alabama Insurance Board shall promulgate such rules and regulations as may be required for the effective administration of this act. The board shall by regulation determine which medical benefits shall be included within the coverage. The

benefits shall include, but not be limited to, prescribed drugs, prosthetic appliances, hospital inpatient and outpatient service benefits and medical expenses indemnity benefits. The benefits shall not include:

(1) Expenses incurred by or on account of an insured or his or her dependent prior to the effective date of the plan.

(2) Hearing aids.

(3) Cosmetic surgery or treatment, except to the extent necessary for correction of damages caused by accidental injury while covered by the plan or as a direct result of a disease covered by the plan.

(4) Services received in a hospital owned or operated by the United States government for which no charge is made.

(5) Services received for injury or sickness due to war or any act of war, whether declared or undeclared, which war or act of war shall have occurred after the effective date of this plan.

(6) Expenses for which the individual is not required to make payment.

(7) Such other expenses as may be excluded by regulations of the board.

Section 8. The provisions of this act are severable. If any part of this act is declared invalid or unconstitutional, such declaration shall not affect the part which remains.

Section 9. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved May 13, 1993

Time: 3:45 P.M.

Act No. 93-603

S. 328 – Senator Horn

AN ACT

To make an appropriation to the Department of Public Health from the Alabama Legacy for Environmental Research Trust for the fiscal year ending September 30, 1993.

Be It Enacted by the Legislature of Alabama:

Section 1. There is hereby appropriated to the Department of Public Health for the fiscal year ending September 30, 1993, the

sum of five hundred thousand dollars (\$500,000) from the Alabama Legacy for Environmental Research Trust (ALERT) for matching grants, as provided for by Act No. 92-658 of the 1992 Second Special Session.

Section 2. The provisions of this act are severable. If any part of this act is declared invalid or unconstitutional, such declaration shall not affect the part which remains.

Section 3. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved May 13, 1993

Time: 3:46 P.M.

Act No. 93-604

S. 367 – Senators Mitchem, Parsons, Amari, Windom, Dixon, Bailey, Smith (B), Lindsey, Dial, Smith (J), Waggoner, Bedsole, Wilson, Campbell, Mitchell, Denton, Floyd, Ghee, Figures, Barron, Foshee, Little, Owens, Langford, deGraffenried, Lipscomb, Corbett, Sanders and Bolling

AN ACT

To provide for a cost of living increase to certain retirees and beneficiaries of the Employees' Retirement System.

Be It Enacted by the Legislature of Alabama:

Section 1. (a) Commencing October 1, 1993, each person, except those whose employer participated in the Employees' Retirement System pursuant to Sections 36-27-6, 36-27-7, and 36-27-7.1, Code of Alabama 1975, whose effective date of retirement for purposes of receiving benefits from the Employees' Retirement System is prior to October 1, 1992, and who is receiving or is entitled to receive a monthly allowance from the Employees' Retirement System, shall receive a cost-of-living increase determined by computing the sum of the following three factors:

(1) One and twenty-eight hundredths (1.28) percent of the individual's current monthly benefit, including all previous increases.

(2) One dollar and twenty-eight cents (\$1.28) for each year of creditable service in covered employment prior to retirement.

(3) One dollar and twenty-eight cents (\$1.28) for each year since the effective date of retirement or the date of death in the case where the employee dies prior to retirement.

Retirees who chose Options 2, 3, or 4 shall receive the cost-of-living increase reduced by the same percentage as the reduction which occurred because of the option selected.

(b) Beneficiaries of deceased members or deceased retirees, except where the deceased member or deceased retiree retired from an employer participating in the Employees' Retirement System pursuant to Sections 36-27-6, 36-27-7 and 36-27-7.1, Code of Alabama 1975, if the date of death for the deceased member, or the effective date of retirement for the deceased retiree for purposes of receiving benefits from the Employees' Retirement System was prior to October 1, 1992, shall receive the cost-of-living increase in the amount attained by the retiree reduced by the retiree's option election factor.

Section 2. Commencing October 1, 1993, each person whose employer participated in the Employees' Retirement System pursuant to Section 36-27-6, Code of Alabama 1975, whose effective date of retirement for purposes of receiving benefits from the Employees' Retirement System is prior to October 1, 1992, and who is receiving or is entitled to receive a monthly allowance from the Employees' Retirement System, may receive a cost-of-living increase determined by the formula used in Section 1, if the employer elects to come under this act. Retirees who chose Options 2, 3, or 4 shall receive the cost-of-living increase reduced by the same percentage as the reduction which occurred because of the option selected. Any employer making the election to come under the act shall bear the cost of the cost-of-living increases paid to its employees pursuant to this section. Any employer participating under Section 36-27-6, Code of Alabama 1975, may elect to come under this act at the beginning of any subsequent fiscal year and the employer shall not be required to pay this cost-of-living increase retroactively.

(b) If the employer elects to come under this act, beneficiaries of deceased members or deceased retirees retired from an employer participating in the Employees' Retirement System pursuant to Section 36-27-6, Code of Alabama 1975, shall receive the same cost-of-living increase provided in Section 1, reduced by the retiree's option factor.

Section 3. Commencing October 1, 1993, each person whose employer participated in the Employees' Retirement System pursuant to Sections 36-27-7 and 36-27-7.1, Code of Alabama 1975,

whose effective date of retirement for purposes of receiving benefits from the Employees' Retirement System is prior to October 1, 1992, and who is receiving a monthly allowance or is eligible to receive a monthly allowance from the Employees' Retirement System, shall receive a cost-of-living increase in the amount of one half the amount provided by the formula in Section 1. Retirees who chose Options 2, 3, or 4 shall receive the cost-of-living increase reduced by the same percentage as the reduction which occurred because of the option selected. Beneficiaries of deceased members or deceased retirees of employers participating in the Employees' Retirement System pursuant to Sections 36-27-7 and 36-27-7.1, Code of Alabama 1975, shall be entitled to the amount the retiree has attained using the formula provided in Section 1, reduced by the retiree's option election factor.

Section 4. The Board of Control of the Employees' Retirement System shall determine annually the amount required to pay the cost of the increased allowance provided under Sections 1 and 3 of this act, and shall notify the chief fiscal officer of each employer the percentum rates of earnable compensation of the members required to be paid to the Retirement Systems. Each employer of members of the Employees' Retirement System shall pay on account of the increases provided in Sections 1 and 3 in the same manner and from the same source of funds as provided in Sections 36-27-7 and 36-27-24, Code of Alabama 1975, it being the intent of the Legislature that the cost of providing the increases in Sections 1 and 3 of this act shall be distributed from all funds in proportion to the salaries paid therefrom for active members.

Section 5. The Board of Control of the Employees' Retirement System may notify any employer who participated in the **Employees' Retirement System and has withdrawn from participation** on the effective date of this act that the cost-of-living increases provided by this act and Act No. 90-522, 1990 Regular Session, are available to their retirees and beneficiaries provided the employer elects to fund the increase.

Section 6. Any pensioner who retired from a city, town, county, or local board before the city, town, county, or local board became a member of the Employees' Retirement System, and who is receiving a monthly benefit on the effective date of this act administered by the Employees' Retirement System, may receive an increase in benefits in the amount of sixty dollars (\$60) per month if the city, town, county, or local board elects to fund the increase, provided the pensioner retired prior to October 1, 1992. For purposes of this section, a pensioner is a retiree who earned retirement in any public pension plan created by the Legislature or a political subdivision.

Section 7. Any annuitant who retired from a city, town, county, or local board before the city, town, county, or local board became a member of the Employees' Retirement System, and who is receiving a monthly benefit on the effective date of this act administered by the Employees' Retirement System, may receive thirty dollars (\$30) per month if the city, town, county, or local board elects to fund the increase.

Section 8. Any city, county, or local board affiliated with the Employees' Retirement System on October 1, 1993, may provide the cost-of-living increase pursuant to this act to any retiree or beneficiary who retired prior to October 1, 1992, if the local unit elects to fund the increase.

Section 9. Any person who received benefits under the Medicaid Program and whose eligibility for Medicaid benefits would be impaired by the cost-of-living increase provided by this act shall not be entitled to receive the increase. Any person who subsequently applies for benefits under the Medicaid Program and that person's eligibility to receive benefits is impaired by the cost-of-living increase provided by this act, shall not be entitled to receive the increase subsequent to the date that the member files application for benefits under the Medicaid Program.

Section 10. The provisions of this act are supplemental. It shall be construed in *pari materia* with other laws regulating and providing for the payment of retirement benefits to the retired members of the Employees' Retirement System. However, those laws or parts of laws which are in direct conflict or inconsistent with this act are repealed to the extent of the conflict.

Section 11. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved May 13, 1993

Time: 3:47 P.M.

Act No. 93-605

S. 661 – Senator Horn

AN ACT

To provide that all appropriations from the State General Fund for the fiscal year ending September 30, 1993 that are subject to proration shall be reduced by the Department of Finance to the level that equals 3.2% proration for the fiscal year 1992-93 and to provide that any revenue deposited into the State General Fund in excess of the amount required to cover that level of appropriations from the fund shall be carried over to the fiscal year beginning October 1, 1993.

Be It Enacted by the Legislature of Alabama:

Section 1. Legislative Intent.

It is the intent of the Legislature that any revenue accruing to the State General Fund in excess of that required to fund pending prorable appropriations at a level of 3.2% proration for the fiscal year ending September 30, 1993 shall be carried forward to the fiscal year beginning October 1, 1993. It is further the intent of the Legislature that these funds be available to ease fiscal constraints in the fiscal year ending September 30, 1994.

Section 2. All appropriations from the State General Fund that are subject to proration for the fiscal year ending September 30, 1993 to any agency, board, commission, department or other entity are hereby reduced to the above described level as of the effective date of this act by the Department of Finance.

Section 3. All laws or parts of laws which conflict with this act are hereby repealed.

Section 4. This act shall become effective immediately following its passage and approval by the Governor or upon its otherwise becoming a law.

Approved May 13, 1993

Time: 3:48 P.M.

Act No. 93-606

S. 219 – Senator Ghee

AN ACT

To provide for the new offense of sexual torture, to define the offense, and to provide felony punishment for the offense which penalty is cumulative.

Be It Enacted by the Legislature of Alabama:

Section 1. (a) A person commits the crime of sexual torture:

(1) By penetrating the vagina or anus or mouth of another person with an inanimate object by forcible compulsion with the intent to sexually torture or to sexually abuse.

(2) By penetrating the vagina or anus or mouth of a person who is incapable of consent by reason of physical helplessness or mental incapacity with an inanimate object, with the intent to sexually torture or to sexually abuse.

(3) By penetrating the vagina or anus or mouth of a person who is less than 12 years old with an inanimate object, by a person

who is 16 years old or older with the intent to sexually torture or to sexually abuse.

(b) The crime of sexual torture is a Class A felony.

Section 2. The provisions of this act are severable. If any part of this act is declared invalid or unconstitutional, such declaration shall not affect the part which remains.

Section 3. The provisions of this act shall be cumulative to any existing provisions of law.

Section 4. This act shall become effective 90 days after its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved May 13, 1993

Time: 3:49 P.M.

Act No. 93-607

S. 576 – Senator Campbell

AN ACT

Relating to Morgan County; to provide for the compensation of members of the county board of registrars, by amending Section 1 of Act No. 733, S. 811, 1977 Regular Session (Acts 1977, p. 1279).

Be It Enacted by the Legislature of Alabama:

Section 1. Section 1 of Act No 733, S. 811, 1977 Regular Session (Acts 1977, p. 1279) is amended to read as follows:

“Section 1. The Chair and each member of the Morgan County Board of Registrars shall be entitled to a daily salary allowance from the county in the amount of thirty-five dollars (\$35) per day for each day's attendance upon business of the board. The amounts shall be paid out of the county general fund and in addition to any compensation of registrars paid out of the state treasury and shall be paid in accordance with Morgan County Alabama Personnel Policies and Procedures.”

Section 2. All laws or parts of laws which conflict with this act are repealed.

Section 3. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved May 13, 1993

Time: 3:50 P.M.

Act No. 93-608

S. 282 – Senator Langford

AN ACT

Honoring the life and public service of former Representative John L. Buskey by providing certain limited matching funds for those monies deposited into the Penny Trust Fund; establishing procedures; designating the source and amounts of the matching funds; and repealing Section 41-15A-5, Code of Alabama 1975.

Be It Enacted by the Legislature of Alabama:

Section 1. This act shall be known and may be cited as the “John L. Buskey Penny Trust Fund Matching Act of 1993.”

Section 2. It is the intent of the Legislature to establish state matching monies for contributions received by the State Treasurer for the Penny Trust Fund. The state establishes these matching funds in honor of former Representative John L. Buskey of Montgomery, the House primary sponsor of the Penny Trust Fund in the 1989 Regular Session of the Legislature, and whose untimely death has taken a great advocate of health services for children and the elderly from the people of Alabama. It is the intent of the Legislature that matching monies shall be transferred to the Penny Trust Fund from the State General Fund and the Alabama Special Educational Trust Fund for those monies contributed to or deposited into the Penny Trust Fund. It is the intent of the Legislature that these monies shall be on a one-to-one match from both the State General Fund and the Alabama Special Educational Trust Fund.

Section 3. (a) The state shall provide matching funds from the Alabama Special Educational Trust Fund and the State General Fund for those monies that are deposited into the Penny Trust Fund during each fiscal year. At the beginning of each calendar year, the State Treasurer shall certify to the Director of Finance the amount of monies which have been deposited into the Penny Trust Fund during the preceding calendar year. At the end of the fiscal year, in which the certification is made, the Director of Finance shall transfer into the Penny Trust Fund an amount equal to the amount certified from the Alabama Special Educational Trust Fund and an amount equal to the amount certified from the State General Fund. These matching funds shall be deposited into the Penny Trust Fund from each respective fund before any conditional funds are disbursed from the Alabama Special Educational Trust Fund or the State General Fund.

(b) The transfer shall not be made if the transfer causes either the Alabama Special Educational Trust Fund or the State General Fund to be prorated.

(c) The maximum amount of matching monies shall not exceed one hundred thousand dollars (\$100,000) from each fund.

(d) Matching funds shall be transferred to the Penny Trust Fund for the 1992-93 fiscal year based on Penny Trust Fund receipts for the 1992 calendar year.

Section 4. The provisions of this act are severable. If any part of this act is declared invalid or unconstitutional, that declaration shall not affect the part which remains.

Section 5. All laws or parts of laws which conflict with this act are repealed. Section 41-15A-5, Code of Alabama 1975, is specifically repealed.

Section 6. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved May 13, 1993

Time: 3:51 P.M.

Act No. 93-609

S. 668 – Senators Escott-Russell and Horn

AN ACT

To amend Section 36-27-6, Code of Alabama 1975, as amended by Act No. 191, S. 346, 1993 Regular Session, to provide further for the transfer of funds from local pension funds to the state system when certain employees of state or county agencies and departments become members of the Employees' Retirement System of Alabama.

Be It Enacted by the Legislature of Alabama:

Section 1. Section 36-27-6, Code of Alabama 1975, as amended by Act No. 191, S. 346, 1993 Regular Session, is amended to read as follows:

“§36-27-6.

“(a) The governing board of any county, city, town or public or quasi-public organization of the state or of any political subdivision thereof or the Alabama extension service and agricultural experiment station system of Auburn University may, by resolution legally adopted to conform to rules prescribed by the board of control, elect to have its officers and employees from whatever sources and in whatever manner paid become eligible to participate in the retirement system; and the adjutant general of the

state, with the approval of the governor, may, by application properly prepared and submitted in conformity with rules prescribed by the board of control, elect to have those employees of the Alabama national guard employed pursuant to 32 U. S. C. A., section 709, and paid from federally appropriated funds, become eligible to participate in this retirement system. The terms 'officers' and 'employees' as used in this section shall include those persons appointed or employed by the individual officers and performing their duties in public offices.

"Acceptance of the employee of such an employer for membership in the retirement system shall be optional with the board of control; and, if it shall approve their participation, it shall set the date, which shall not be prior to October 1, 1946, when participation shall become effective, and then such employees may become members of the retirement system and participate therein as provided in the provisions of this section. Notwithstanding anything to the contrary in this section, employees of any such employer who are members of any retirement, pension or benefit fund partially or wholly supported by public funds shall not be entitled to become members of this retirement system.

"(b) Membership in the retirement system shall be optional for employees of the employer who are in the service of the employer on the date when participation becomes effective, and any such employee who elects to join the retirement system within one year thereafter shall be entitled to a prior service certificate covering such periods of previous service as shall be certified as creditable service by his employer for service rendered to such employer, or his predecessor, or the state, or in any other capacity approved by the employer and the board, for which the employer is willing to make accrued liability contributions. Thereafter service for such **employee on account of which the employer pays contributions** shall be considered also as creditable service.

"(c) Membership shall be compulsory for all employees entering the service of such employer after the date participation becomes effective.

"(d) Should a majority of the members of any retirement, pension, annuity fund or retirement system of any employer, hereafter referred to as a local pension system, elect to become members of the retirement system, by a petition duly signed by such members, the participation of such members in the retirement system may be approved as provided in subsection (a) of this section as though such local pension system were not in operation, and the provisions of this section shall thereupon apply; except, that the existing pensioners or annuitants of the local pension system who were being paid pensions on the date of the approval shall be continued

and paid at their existing rates by the retirement system, and the liability on this account shall be included in the computation of the accrued liability rate as provided by subsection (f) of this section. Any cash and securities to the credit of the local pension system shall be transferred to the retirement system as of the date of approval. The trustees or other administrative head of the local pension system as of the date of approval shall certify the proportion, if any, of the funds of the system that represents the accumulated contributions of the members, and the relative shares of the members as of that date. Such shares shall be credited to the respective employee annuity savings accounts of such members in the retirement system as additional contributions. The balance of the funds transferred to the retirement system shall be offset against the accrued liability before determining the special accrued liability contribution to be paid by the employer as provided by subsection (f) of this section. The operation of the local pension system shall be discontinued as of the date of the approval.

“(e) The chief fiscal officer of the employer, and the heads of its departments, shall submit to the board of control such information and shall cause to be performed in respect to the employees of said employer such duties as shall be prescribed by the board in order to carry out the provisions of this article.

“(f) The actuary of the retirement system shall compute the rates of contributions payable by employees who become members under the provisions of this section in the same manner as if they were state employees and shall compute the contributions which would be payable annually by the employer on behalf of such members as though they were state employees; except, that each employer of members participating in the system as provided in this section shall make a special accrued liability contribution on account of the participation of its officers and employees in the retirement system which shall be determined by an actuarial valuation of the accrued liability on account of the employees of such employer who elected to become members, in the same manner as the accrued liability rate was originally determined for state employees. This special accrued liability contribution, subject to such adjustment as may be necessary on account of any additional prior service credits awarded to employees of such employer, shall be payable in lieu of the accrued liability contribution payable on account of other employees in the system. The expense of making such initial valuation shall be assessed against and paid by the employer on whose account it is necessary. The contributions so computed, together with a pro rata share of the cost of the administration of the retirement system, based upon the payroll of the employees, shall be certified by the board of control to the chief fiscal officer of the employer. The

amounts so certified shall be a charge against the employer. The chief fiscal officer of each such employer shall pay to the state treasurer the amount certified by the board as payable under the provisions of this section, and the state treasurer shall credit such amounts to the appropriate funds of the retirement system.

“(g) Employees who become members under this section and on behalf of whom contributions are paid as provided in this section should be entitled to the benefits under the retirement system as though they were state employees.

“(h) The agreement of any employer to contribute on account of its employees shall be irrevocable, but should an employer for any reason become financially unable to make the normal and accrued liability contributions payable on account of its employees, then such employer shall be deemed to be in default. All members of the retirement system who were employees of such employer at the time of default shall thereupon be entitled to discontinue membership in the retirement system and to a refund of their previous contributions upon demand made within 90 days thereafter. As of a date 90 days following the date of such default, the actuary of the retirement system shall determine by actuarial valuation the amount of the reserve held on account of each remaining active member and pensioner of such employer and shall credit to each such member and pensioner the amount of reserve so held. The reserve so credited, together with the amount of the accumulated contributions of each such active member, shall be used to provide for him a paid-up deferred annuity beginning at age 60, and the reserve of each pensioner shall be used in providing such part of his existing pension as the reserve so held will provide, which pension, together with his annuity, shall thereafter be payable to him. The rights and privileges of both active members and pensioners of such employer shall thereupon terminate, except as to the payment of the deferred annuities so provided and the annuities and pensions, or parts thereof, provided for the pensioners.

“(i) Notwithstanding anything to the contrary, the retirement system shall not be liable for the payment of any pensions or other benefits on account of the employees or pensioners of any employer under this section, for which reserves have not been previously created from funds contributed by such employer or its employees for such benefits.

“(j) The agreement of any employer to contribute on account of its employees shall be irrevocable except that by mutual consent any employer, and its employees desiring to withdraw from the employees' retirement system as a unit, may do so by complying with the following provisions:

“(1) The employer, by resolution of the governing body, shall signify its intention and desire to withdraw from the employees'

retirement system in writing and shall deliver copy of such resolution, together with the signatures of members as provided in subdivisions (2) and (3) of this subsection, to the board of control of the employees' retirement system.

"(2) Each member of such employer contributing on the date that the unit withdraws shall agree in writing to waive his rights, privileges and vested interest under the provisions of the Employees' Retirement System Act, and shall agree to have his accumulated contributions with interest, as is provided to a member upon withdrawal, transferred to the employer and retained or expended in accordance with applicable local law.

"(3) Each member of such employer who is not contributing on the date that the unit withdraws shall have his contributions plus interest retained in the state employees' retirement system, and shall be governed under the applicable laws, except those who agree as in subdivision (2) of this subsection, in which event, their accumulated contributions with interest as is provided to a member upon withdrawal shall be treated in the same manner as in subdivision (2) of this subsection.

"(4) The rights and privileges of existing beneficiaries of such employer shall neither be diminished, nor impaired, and the actuarial determination of the reserves necessary to provide the existing benefits shall be determined by the actuary employed by the state employees' retirement system, and shall be certified to the governing body of the withdrawing unit, who shall agree to maintain such rights and privileges, and to maintain the reserves, as certified, for the existing beneficiaries. Should the reserves prove inadequate, such employer shall agree to appropriate such amounts as may be necessary to maintain the existing benefits. The signatures of the existing beneficiaries agreeing to waiver of their rights and privileges, and vested interest in the employees' retirement system, and transfer of their accounts to the local employer shall be obtained by the employing unit. In the event any beneficiary declines to agree and sign such waiver of his rights and privileges, the reserves in the annuity reserve fund and pension reserve fund for such beneficiary shall be maintained by the employees' retirement system under such rules and regulations as the board of control may adopt, and such reserves as may be determined by the actuary as necessary shall be retained out of any money which the withdrawing unit has remitted to the retirement system. Upon transfer of such funds to the employer the employees' retirement system shall not be liable for the payment of any annuities or pensions or other benefits on account of such beneficiaries.

"(5) The board of control of the employees' retirement system shall promulgate such rules and regulations as are necessary to the

termination of such employers' and employees' participation in the employees' retirement system and shall determine the amounts returnable to the employer and employees upon the actuarial valuation of such amounts by the actuary. Any actuarial or extraordinary expenses involved in such termination and transfer of funds, if in excess of present administrative expense, shall be deducted from any funds returnable to the employer, but no transfer of funds shall take place in less than 90 days subsequent to date of notification of intention to withdraw by the employer subsequent to June 10, 1953.

“(k) Notwithstanding the provisions of subsection (a) and (d) of this section, should a majority of the employees of any county board, department, or agency responsible for the local administration of a program for a state board, department, or agency, that are members of a retirement, pension, annuity fund, or retirement system, other than the Employees' Retirement System, together with any other separate employer, hereafter referred to as a local pension system, elect to become members of the Employees' Retirement System by a petition for membership duly signed by the members of the county board, department, or agency, the participation of the county employees in the Employees' Retirement System may be approved upon legal adoption of a resolution by the governing board of the county department, agency, or board that conforms to the membership rules for local pension systems prescribed by the Board of Control of the Employees' Retirement System. Notwithstanding any rules or procedures prescribed by the Board of Control, the existing county board, department, or agency pensioners or annuitants belonging to the local pension system and being paid pensions by the local system on the date of approval of the resolution, shall continue to be paid their pension benefits at their existing rates by the Employees' Retirement System upon commencement of their participation in the Employees' Retirement System, and the vested inactive members of the local pension system who are not receiving benefits on the effective date of this act, shall be entitled to begin receiving from the Employees' Retirement System the amount of any benefits that they have vested under the local pension system upon meeting the eligibility requirements of the local pension system, and any liability for assumption by the Employees' Retirement System of both the current benefits and the vested benefits shall be included in the computation of the accrued liability rate as provided in subsection (f) of this section. On the approval date of the resolution, the trustees or other administrators of the local pension system shall immediately require the actuary for the local system to determine the share of pension system assets to be allocated to the county board, department or agency on behalf of its employees, pensioners, annuitants, and vested inactive members by means of

reconstruction of all contributions made to the local pension system by the county board, department, or agency and its employees since commencing participation in the local pension system, increased by return on investments, and decreased by payment of retirement benefits and withdrawals by employees who have withdrawn their contributions from the local pension system.

“Such computation shall be adjusted, so that the local system is not left in an actuarially underfunded condition according to the last actuarial report of the local system. In the event some employees or retirees elect to remain in the local system, the amount transferred shall be appropriately adjusted prior to transfer of assets to the state Employees’ Retirement System.”

“The share of pension system assets as may be finally determined to be allocated on behalf of the county board, department, or agency employees shall be transferred to the Employees’ Retirement System at a time and in a manner as agreed upon by and among the governing board of the county board, department, or agency, the trustees or other administrators of the local pension system, and the Employees’ Retirement System. In no event shall the transfer be delayed longer than six months from the date of acceptance of the resolution by the Board of Control of the Employees’ Retirement System.

“The operation of the local pension system shall continue from and after the withdrawal of the county board, department, or agency employees, pensioners, annuitants, and vested inactive members from the local pension system.”

Section 2. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved May 13, 1993

Time: 3:52 P.M.

Act No. 93-610

S. 669 – Senator Foshee

AN ACT

Relating to Covington County; amending Act No. 86-703, S. 17, 1986 1st Special Session, as amended, which authorizes the county commission to levy a sales tax, to alter the distribution of the proceeds from the tax.

Be It Enacted by the Legislature of Alabama:

Section 1. Section 8 of Act No. 86-703, S. 17, 1986 1st Special Session, is amended to read as follows:

"Section 8. The State Department of Revenue shall charge the county for collecting the sales tax levied under this act an amount of the percentage of total collections as may be agreed upon by the Commissioner of Revenue and the county commission, but the charge shall not, in any event, exceed five percent of the total amount of the sales tax collected in the county pursuant to this act. The charge for collecting the sales tax may be deducted each month from the gross revenues from the sales tax before certification of the amount of the proceeds thereof due the county for that month. The Commissioner of Revenue shall pay into the State Treasury all revenue collected pursuant to this act, as the tax is received by the Department of Revenue, and on or before the first day of each successive month, commencing with the month following the month in which the department makes the first collection hereunder the commissioner shall certify to the State Comptroller the amount of tax collected pursuant to this act and paid into the State Treasury for the benefit of the county during the month immediately preceding the certification. Provided, however, that before certifying the amount of the tax paid into the State Treasury for the benefit of the county during each month, the commissioner may deduct from the tax collected in the month the charge due the department for the collection of the tax for the county. It shall be the duty of the State Comptroller to issue a warrant each month payable to the County Treasurer of Covington County in an amount equal to the amount so certified by the Commissioner of Revenue as having been collected for use of the county. All revenues arising from the tax authorized to be levied shall only be allocated and used for the following purposes:

- (a) Fifty percent to the County General Fund.
- (b) Twenty percent to the gasoline tax fund to be divided equally among each road district for roads and bridges maintenance.
- (c) Twenty percent to the public highway and traffic fund for roads and bridges maintenance.
- (d) Five percent to the Covington County School System.
- (e) Two and one half percent to Lurleen B. Wallace State Junior College.
- (f) Two and one half percent to Douglas McArthur State Technical College."

Section 2. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved May 13, 1993

Time: 3:53 P.M.

Act No. 93-611

S. 642 – Senator Bolling

AN ACT

Relating to Fayette County; to alter the organization and composition of the county commission, provide for rotating the terms of chair of the commission; to reduce the compensation of the commission; to establish a shop and unit road system for the operation of the county roads and bridges; to provide for the employment of a clerk/administrator; to provide for the employment of a county engineer; to provide for the employment of a county supervisor; and to require members of the county commission to inspect the roads and bridges in their districts.

Be It Enacted by the Legislature of Alabama:

Section 1. This act shall be operative only in Fayette County.

Section 2. The organization and composition of the County Commission of Fayette County, Alabama, is altered to comply with the provisions of this act. The governing body of Fayette County, Alabama, shall continue to be known as the County Commission of Fayette County, Alabama, and shall have and exercise all powers, duties, limitations, and responsibilities conferred upon it by the general laws of Alabama relating to county commissions. For the purpose of transacting official business, a quorum shall consist of the chair and three commissioners.

Section 3. The county commission shall consist of six members, who shall possess qualifications as hereinafter prescribed.

Section 4. Each commissioner may serve a one-year term as chair on the basis of a six-year rotation, the term beginning on the anniversary date of the seventh day next following the general election next preceding his or her term each year in the following order: District 1, District 3, District 6, District 5, District 4, District 2. A commissioner may elect to pass at any time that the term of the chair arises or may swap terms with another consenting commissioner. The chair shall have a vote in all matters before the commission except in the event of a tie whereupon the chair shall have a second vote for the limited purpose of casting the deciding vote.

Section 5. The members of the Fayette County Commission shall be elected from six single-member districts within the county, of which at least one shall have a majority black population. The members of the county commission shall serve in a part-time capacity effective upon the commencement of the next term of office of any of its members. The members shall not be precluded from holding other employment if it is not inconsistent with their duties and the laws of the State of Alabama.

Section 6. Commissioners shall continue to receive a salary of twenty-five thousand dollars (\$25,000) per annum until the

terms in November 1994, at which time the salaries of the commissioners shall be fourteen thousand six hundred dollars (\$14,600) per annum. Commissioners elected and beginning four-year terms of office in November 1994, shall receive salaries of fourteen thousand six hundred dollars (\$14,600) per annum.

Section 7. For the purposes of this act, and for future elections of members of the County Commission, Fayette County is hereby divided into six separate geographical districts, to be numbered one to six, inclusive, the boundaries of which shall be delineated by resolution of the county commission.

Section 8. The Fayette County Commission shall establish a shop and unit road system for the operation of the county roads and bridges. The county engineer shall, at each October meeting of the county commission, make recommendations for a yearly work plan and present budget information for the new year. The commission at its regular meetings shall discuss needs as they arise and vote on all issues that might affect the county. The chair, with approval of the county commission, shall manage the daily operation of the county commission. It shall be the duty of the county commission to fix, from time to time in accordance with prevailing economic conditions, the number of employees and the various scales of wages or salaries to be paid for labor necessary in the maintenance and construction of roads, bridges, and county shop operation.

Section 9. A vacancy occurring in the office of commissioner shall be filled in the manner otherwise provided by law concerning the filling of vacancies of county commissioners.

Section 10. The chair, with approval of the county commission, shall employ a clerk/administrator who shall devote his or her time to the duties of his or her office, and he or she shall receive compensation for his or her services as may be determined and fixed by the county commission, and the county commission may employ other clerical help and assistance as may be deemed necessary for the proper, efficient, and economical operation of the office of the county commission. The clerk/administrator shall enter the minutes of all proceedings of the county commission in a well-bound book provided for that purpose, which book shall be kept in the office of the county commission and shall be open to the inspection of the public at all reasonable hours. The clerk/administrator shall keep a complete record of all receipts and disbursements of all county funds and shall be prepared at all times to show the financial condition of the county.

Section 11. The county commission shall employ a county engineer, who shall be a thoroughly qualified and competent civil engineer, possessing all of the qualities as specified for county engineers under the general laws of the State of Alabama. The engineer

shall devote his or her time and attention to the maintenance and construction of the Fayette County public roads, highways, bridges, and county shop, and shall, during his or her employment, reside in Fayette County, Alabama. The county engineer shall serve at the pleasure of the county commission. The county engineer shall perform engineering and surveying services as required and prepare and maintain all necessary maps and records. The county commission shall fix the amount of the salary of the engineer.

Section 12. The county commission may, by designating one of its employees or, in its discretion, employ as new personnel, a county supervisor. The county supervisor shall serve at the pleasure of the county commission and his or her compensation shall be fixed by the county commission. It shall be the duty of the county supervisor of Fayette County: (1) To supervise and direct all personnel as are necessary to properly maintain and construct the public roads, highways, bridges, and county shop of Fayette County, and he or she shall have authority to prescribe their duties subject to the policies which are in effect or established by the county commission; (2) to maintain the necessary accounting funds and records to reflect the cost of the county highway system; (3) to build or construct new roads, or change old roads; (4) to make recommendations for a yearly work plan and present budget information for the new year; and (5) to maintain and construct all county roads on the basis of the county as a unit without regard to any district or beat lines, insofar as is practicable and feasible. The county supervisor is hereby designated as the person authorized to make written requisition to the chair of the commission or his or her duly designated purchasing agent for all articles, materials, supplies, and equipment necessary for the maintenance and construction of the roads, bridges, and county shop in Fayette County. Before entering upon his or her duties, the county supervisor shall make and enter into a surety bond in an amount set, from time to time, by the county commission, conditioned for the faithful discharge and performance of his or her duties, and for the faithful accounting of all monies or property of the county, which may come into his or her possession or custody, the bond to be executed by a surety company authorized and qualified to do business in Alabama, and to be approved by the chair of the county commission, and the premiums thereon to be paid by Fayette County. The county commission shall furnish the county supervisor an office, office supplies, and shall furnish him or her with transportation in connection with his or her duties under this act. The county supervisor shall be the custodian of all road tools, machinery, supplies, and equipment of Fayette County, and he or she shall be accountable for the same at all times. The county commission shall furnish the necessary storage facilities in which to keep tools, machinery, supplies, and equipment, and the county

supervisor shall keep on file in his or her office, at all times, an up-to-date inventory, containing a list of all tools, machinery, equipment, and supplies belonging to Fayette County. The authority of the county supervisor shall be limited to the expenditure of the funds for the purposes of construction, maintenance, or repairs of public roads and bridges of Fayette County as may be set aside and appropriated by the county commission. It shall be the duty of the county commission to annually fix and determine the amount of funds which will be available for the purpose of building, maintaining, and constructing public roads and bridges of Fayette County for the fiscal year, beginning on October 1, and the amount shall not be exceeded by him or her in building, maintaining, and constructing public roads and bridges in Fayette County during the period; provided, however, that the county commission is authorized, from time to time, within any period, to increase the amount so allowed to be expended by the county supervisor during the period, provided that the authorization will not conflict with other provisions of the general laws of the State of Alabama.

Section 13. It shall be the duty of each member of the county commission to inspect the roads and bridges of his or her district from time to time and hear the suggestions and complaints of the citizens, and report the complaint to the county commission with his or her recommendations. The members shall also assist in securing rights-of-way and assist in public relations generally.

Section 14. The provisions of this act are severable. If any part of this act is declared invalid or unconstitutional, that declaration shall not affect the part which remains.

Section 15. The provisions of this act are supplemental. It shall be construed in *pari materia* with other laws relating to the subject matter herein; however, any law which conflicts specifically herewith is hereby repealed.

Section 16. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved May 13, 1993

Time: 3:54 P.M.

Act No. 93-612

S. 311 – Senator Horn

AN ACT

To provide for a salary cost-of-living bonus for certain state employees and to appropriate funds therefor for the fiscal year beginning October 1, 1993.

Be It Enacted by the Legislature of Alabama:

Section 1. Beginning October 1, 1993, and payable in a lump sum quarterly, all state employees who are listed in the classified and unclassified service of the state as defined in Section 36-26-10 of the Code of Alabama 1975, and all other state employees and hourly employees of the state, except those set out in Section 2 of this act, and all legislative personnel, officers and employees, including, but not limited to, Legislative Reference Service personnel, whether subject to the state merit system or not, and all circuit clerks and registers and all employees of the county health departments who are employed subject to the state merit system and whose compensation is paid out of a budget provided and agreed upon by the state, county, or other contributing agency under the direction of the state board of health shall receive a \$1,250 cost-of-living bonus. The bonus shall be in addition to the salary received by an employee. It is the intention of the Legislature that the Governor transfer such amounts to, from, and between departments, boards, bureaus, commissions, agencies, offices, and institutions under the direct control of the Governor for the purpose of paying the bonus for state employees and officials.

Section 2. This act shall not apply to any merit system employee or hourly employee whose service or rate of pay is covered by any labor agreement or contract, nor shall this act apply to a state judge whose salary is payable from the State Treasury, nor shall this act apply to any county or municipal employee whose salary is tied to any state compensation on a percentage basis or otherwise.

Section 3. It is the intent of the Legislature that the \$1,250 cost-of-living bonus shall be in addition to all other salary payments made to state employees. This payment shall be clearly identified as a cost-of-living bonus and shall be separate and apart from any other payroll remuneration. The bonus payment shall not be included in the computation of any other salary received by state employees nor the computation of retirement contributions and benefits and in no event shall state employer or state employee retirement deductions be made from such payments. The bonus payments shall be made on a quarterly basis in four successive quarters for the fiscal year beginning October 1, 1993. The first quarterly bonus payment shall be made on the second bi-weekly pay day in December 1993, and shall be based upon such employee being employed from the period September 4, 1993 through December 10, 1993. The second quarterly bonus payment shall be made on the second bi-weekly pay day in March based upon such employee being employed from the period December 11, 1993 through March 4, 1994. The third quarterly payment shall be

made on the second bi-weekly pay day in June based upon such employee being employed from the period March 5, 1994 through June 3, 1994. The fourth quarterly payment shall be made on the third bi-weekly pay day in September 1994, based upon such employee being employed from the period June 4, 1994 through September 16, 1994. Part-time employees shall receive a portion of such quarterly bonus based upon the total hours worked during each quarter divided by the total number of hours in each quarter which shall be based upon a 40 hour week.

Section 4. The amounts necessary to pay state officials and employees the bonuses are appropriated for the fiscal year beginning October 1, 1993, from those funds that the salaries of the state officials and employees are paid.

Section 5. The provisions of this act are severable. If any part of this act is declared invalid or unconstitutional, that declaration shall not affect the part which remains.

Section 6. All laws or parts of laws which conflict with this act are repealed.

Section 7. This act shall become effective on September 4, 1993, with the first payment on the second bi-weekly pay day in December 1993, for all state officials and employees covered by this act who are paid bi-weekly, and effective on October 1, 1993, for all state officials and employees covered by this act whose salaries are set annually and who are paid semi-monthly or monthly, and upon approval by the Governor, or upon its otherwise becoming a law.

Approved May 13, 1993

Time: 3:55 P.M.

Act No. 93-613

S. 199 – Senator Windom

AN ACT

To revise the membership of the Commission on Uniform State Laws and provide for the payment of its expenses and dues by amending Sections 41-9-370 to 41-9-374, inclusive, Code of Alabama 1975; and to make a supplemental appropriation to the commission.

Be It Enacted by the Legislature of Alabama:

Section 1. Sections 41-9-370 to 41-9-374, inclusive, Code of Alabama 1975, are amended to read as follows:

“§41-9-370.

“The commission on uniform state laws is continued in existence. The commission consists of three members of the bar appointed by the governor for a term of four years or until their successors are appointed, any residents of this state who because of long service in the cause of the uniformity of state legislation have been elected life members of the national conference of commissioners on uniform state laws, a member of the Senate appointed by the President of the Senate, a member of the House of Representatives appointed by the Speaker of the House, the Director of the Alabama Law Institute, and the Director of the Legislative Reference Service.”

“§41-9-371.

“Upon the death, resignation, failure, or refusal to serve of any appointed commissioner, his or her office shall become vacant, and the Governor, President of the Senate, or the Speaker, as the case may be, shall make an appointment to fill the vacancy for the unexpired term of the former appointee.”

“§41-9-372.

“The commissioners shall meet at least once every two years and shall elect one of their number as chair and another as secretary, who shall hold their respective offices for a term of two years and until their successors are elected.”

“§41-9-373.

“Each commissioner shall attend the meeting of the national conference of commissioners on uniform state laws and, both in and out of the national conference, shall do all in his or her power to promote uniformity in state laws upon all subjects where uniformity is deemed desirable and practicable. The commission shall report to the legislature at each regular session and from time to time thereafter as the commission deems proper an account of its transactions and its advice and recommendations for legislation. It is also the duty of the commission to bring about as far as practicable the uniform judicial interpretation of all uniform laws.”

“§41-9-374.

“From funds appropriated to the commission, the commission shall reimburse members of the commission for their necessary expenses in performing the duties of their offices in the same manner as state employees are reimbursed for their expenses, pay the cost of printing the commission's reports, and pay the dues of this state to the national conference of commissioners on uniform state laws. The amount of expenses and dues shall be certified to the

Director of Finance by the chair of the commission, and the Director of Finance shall draw warrants and the State Treasurer shall pay the warrants for these purposes.”

Section 2. There is appropriated from the State General Fund to the Alabama Commission on Uniform State Laws the sum of nineteen thousand four hundred forty dollars (\$19,440) for the fiscal year ending September 30, 1993. The appropriation herein shall be in addition to any and all other funds heretofore or hereafter appropriated to the Alabama Commission on Uniform State Laws.

Section 3. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved May 13, 1993

Time: 3:56 P.M.

Act No. 93-614

S. 113 – Senator deGraffenried

AN ACT

To adopt and incorporate into the Code of Alabama 1975 those general and permanent laws of the state enacted during the 1991 Regular and First Special Sessions of the Legislature, as originally contained in the 1991 Cumulative Supplement to certain volumes of the Code and carried forward into the 1992 Cumulative Supplement, and as contained in the 1991 Replacement Volumes 18, 19, 19A, 22, and 22A, and to make corrections in certain volumes of the 1992 Cumulative Supplement, as brought from the 1991 Cumulative Supplement, and in the 1991 Replacement Volume 18; and to adopt and incorporate into the Code of Alabama 1975 those general and permanent laws of the state enacted during the 1992 First Special and Regular Sessions of the Legislature, as contained in the 1992 Cumulative Supplement to certain volumes of the Code and in the 1992 Replacement Volumes 9, 15, 15A, and 20 of the Code, and to make corrections in certain volumes of the 1992 Cumulative Supplement and the 1992 Replacement Volume 15.

Be It Enacted by the Legislature of Alabama:

Section 1. Those general and permanent laws of the state enacted during the 1991 Regular and First Special Sessions of the Legislature, as originally contained in the 1991 Cumulative Supplement to Volumes 3 through 17A, 20, and 21, and carried forward into the 1992 Cumulative Supplement and as contained in the 1991 Replacement Volumes 18, 19, 19A, 22, and 22A of the Code of Alabama 1975, as edited and prepared by The Michie Company, as the Alabama Code Publisher, which volumes of the 1991 Cumulative Supplement and the 1991 Replacement Volumes are identified and authenticated by the Great Seal of the State of

Alabama placed upon the front and back of each of the volumes of the cumulative supplement and upon the first inside page and the last inside page of the replacement volumes, are adopted and incorporated into the Code of Alabama 1975. Provided, however, the following corrections are made in certain volumes of the 1992 Cumulative Supplement containing the statutes brought forward from the 1991 Cumulative Supplement, and in the 1991 Replacement Volume 18:

(1) § 6-5-336, Vol. 5, p. 142: At the end of subsection (e), substitute "(d)" for "(a)."

(2) § 8-21A-2, Vol. 6, p. 216: On the first line of subdivision (3), between "DEALER," and "LIGHT," insert "DEALER,".

(3) § 8-25-1, Vol. 6, p. 233: At the end of subdivision (5), correct paragraphs (a) and (b) to read "a." and "b.", respectively. Also, in corrected paragraph a. of subdivision (5), delete the language "subsection 4 of section 5-29-1" and insert in lieu thereof, "subdivision (4) of section 5-19-1."

(4) § 16-3-15, Vol. 13, p. 17: On line three of subdivision (2) of subsection (d), translate "this act" to "The Alabama Education Improvement Act of 1991 (Acts 1991, No. 91-323)."

(5) § 16-3-15, Vol. 13, p. 17: On line three of subdivision (3) of subsection (d), translate "this act" to "The Alabama Education Improvement Act of 1991 (Acts 1991, No. 91-323)."

(6) § 16-23-16.1, Vol. 13, p. 64: On line two of subsection (c), translate "this act" to "this section."

(7) § 16-23-16.1, Vol. 13, p. 64: On line seven of subsection (d), translate "this act" to "this section."

(8) § 16-25-10.8, Vol. 13, p. 77: On lines two and three of subsection (b), translate "section one of this act" to "subsection (a)."

(9) § 16-25-10.8, Vol. 13, p. 77: On line two from the end of subsection (b), substitute "Section 16-25-21" for "subsection (a)."

(10) § 34-2-34, 1991 Replacement Vol. 18, p. 240: At the end of the last paragraph of subdivision (3), delete "(7)". Also make appropriate correction in the note following the section.

(11) § 34-8-28, 1991 Replacement Vol. 18, p. 366: On line three of the last paragraph of subsection (b), substitute "subsection (a)" for "section 34-8-40."

Section 2. Those general and permanent laws of the state enacted during the 1992 First Special and Regular Sessions of the Legislature, as contained in the 1992 Cumulative Supplement to Volumes 3 through 8, 10 through 14, 16 through 19A, and 21

through 22A, and the 1992 Replacement Volumes 9, 15, 15A, and 20 of the Code of Alabama 1975, as edited and prepared by The Michie Company, as the Alabama Code Publisher, which volumes of the cumulative supplement and the replacement volumes are identified and authenticated by the Great Seal of the State of Alabama placed upon the front and back of each of the volumes of the cumulative supplement and upon the first inside page and the last inside page of the replacement volumes, are adopted and incorporated into the Code of Alabama 1975. Provided, however, the following corrections are made in certain volumes of the 1992 Cumulative Supplement and in the 1992 Replacement Volume 15:

(1) § 22-30B-13, Vol. 14, p. 81: Following this section insert the following section:

“§ 22-30B-13.1.

“Any operator subject to this chapter who, after September 30, 1992, pays increased fees for disposal of waste and substances which have been generated inside of Alabama shall be entitled to a credit of \$72.00 per ton for the amount of such waste generated inside Alabama and disposed of from July 15, 1990, to April 30, 1992. Such credit created under this subsection shall be credited against any fees which are payable to the general fund of the State of Alabama and shall be granted at the rate of 1/12th of such credit per month, beginning October 1, 1993, and until such credit is exhausted. For purposes of this subsection, no certificate of overpayment must be issued by the State Comptroller.

(2) § 25-5-77, 1992 Replacement Vol. 15, p. 597: On lines 34 and 35, 36, and 38 of the subsection (a), substitute “August 1, 1992” for “May 19, 1992.”

(3) § 40-12-192, Vol. 21, p. 108: In subdivision (1) of subsection (a), delete the word “excise” preceding the word “taxes.”

(4) § 40-21-82, Vol. 21, p. 265: In the table in subsection (a), following the language, “Over \$40,000.00 but not,” substitute “\$1,600.00” for “\$16,600.00.”

Section 3. It is hereby declared that The Michie Company, as the Alabama Code Publisher, has discharged its duties and responsibilities to edit and publish 1991 Replacement Volumes 18, 19, 19A, 22, and 22A, and 1992 Replacement Volumes 9, 15, 15A, and 20 of the Code of Alabama 1975, by combining the material in the previous bound volumes with the material contained in the cumulative supplements without making substantive changes, but making nonsubstantive changes and corrections as may have resulted from changes in reference numbers, changes of names and titles of governmental departments, agencies, and officers, typographical errors, and misspellings.

Section 4 The adoption of this act shall not repeal, supersede, amend, or in any other way affect any statute enacted into law during any 1993 session of the Legislature.

Section 5. Upon passage and approval of this act, the duly authenticated volumes of the 1991 Cumulative Supplement and the 1992 Cumulative Supplement, and the duly authenticated 1991 and 1992 replacement volumes shall be transmitted to the Secretary of State, who shall file the volumes of the supplements and the replacement volumes in that office. The volumes of the supplements and the replacement volumes shall not be removed from the office of the Secretary of State, but the Secretary of State, upon request, under proper certificate and seal of that office, shall certify any part or parts thereof upon payment of the fee specified by law for similar services.

Section 6. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved May 13, 1993

Time: 3:57 P.M.

Act No. 93-615

S. 245 – Senator Langford

AN ACT

To amend Section 41-16-51, Code of Alabama 1975, to exempt purchases of certain computer and word processing hardware and custom software owned by any entity which would otherwise be subject to certain competitive bid requirements and to exempt professional services for the codification and publication of laws and ordinances from certain competitive bid requirements.

Be It Enacted by the Legislature of Alabama:

Section 1. Section 41-16-51, Code of Alabama 1975, is amended to read as follows:

“§41-16-51.

“(a) Competitive bids shall not be required for utility services, the rates for which are fixed by law, regulation or ordinance, and the competitive bidding requirements of this article shall not apply to:

“(1) The purchase of insurance.

“(2) The purchase of ballots and supplies for conducting any primary, general, special, or municipal election.

"(3) Contracts for securing services of attorneys, physicians, architects, teachers, superintendents of construction, artists, appraisers, engineers, consultants, certified public accountants, public accountants, or other individuals possessing a high degree of professional skill where the personality of the individual plays a decisive part.

"(4) Contracts of employment in the regular civil service.

"(5) Contracts for fiscal or financial advice or services.

"(6) Purchases of products made or manufactured by the blind or visually handicapped under the direction or supervision of the Alabama Institute for Deaf and Blind in accordance with sections 21-2-1 to 21-2-4, inclusive.

"(7) Purchases of maps or photographs from any federal agency.

"(8) Purchases of manuscripts, books, maps, pamphlets, or periodicals.

"(9) The selection of paying agents and trustees for any security issued by a public body.

"(10) Existing contracts up for renewal for sanitation or solid waste collection and disposal between municipalities and/or counties, and those providing the service.

"(11) Purchases of computer and word processing hardware when the hardware is the only type that is compatible with hardware already owned by the entity taking bids and custom software.

"(12) Professional services contracts for codification and publication of the laws and ordinances of municipalities and counties.

"(13) Contractual services and purchases of commodities for **which there is only one vendor or supplier and contractual services and purchases of personal property** which by their very nature are impossible to award by competitive bidding.

"(b) This article shall not apply to:

"(1) Any purchases of products where the price of the products is already regulated and established by state law.

"(2) Purchases made by individual schools of the county or municipal public school systems from moneys other than those raised by taxation or received through appropriations from state or county sources.

"(3) The purchase, lease, sale, construction, installation, acquisition, improvement, enlargement, or expansion of any building or structure or other facility designed or intended for lease or sale by a medical clinic board organized under sections 11-58-1 to 11-58-14, inclusive.

"(4) The purchase, lease or other acquisition of machinery, equipment, supplies, and other personal property or services by a medical clinic board organized under sections 11-58-1 to 11-58-14, inclusive.

"(5) Purchases for public hospitals and nursing homes operated by the governing boards of instrumentalities of the state, counties, and municipalities.

"(6) Contracts for the purchase, lease, sale, construction, installation, acquisition, improvement, enlargement or extension of any plant, building, structure, or other facility or any machinery, equipment, furniture or furnishings therefor designed or intended for lease or sale for industrial development, other than public utilities, under sections 11-54-80 to 11-54-99, inclusive, or sections 11-54-20 to 11-54-28, inclusive, or any other statute or amendment to the Constitution of Alabama authorizing the construction of plants or other facilities for industrial development or for the construction and equipment of buildings for public building authorities under sections 11-56-1 to 11-56-22, inclusive.

"(7) The purchase of equipment, supplies, or materials needed, used, and consumed in the normal and routine operation of any waterworks system, sanitary sewer system, gas system or electric system, or any two or more thereof, that are owned by municipalities, counties, or public corporations, boards or authorities that are agencies, departments, or instrumentalities of municipalities or counties and no part of the operating expenses of which system or systems have, during the then current fiscal year, been paid from revenues derived from taxes or from appropriations of the state, a county, or a municipality.

"(8) Purchases made by local housing authorities, organized and existing under chapter 1 of Title 24, from moneys other than those raised by state, county, or city taxation or received through appropriations from state, county, or city sources.

"(c) The state trade schools, state junior colleges, state colleges, and universities under the supervision and control of the state board of education, the city and county boards of education, the district boards of education of independent school districts, the county commissions, and the governing bodies of the municipalities of the state shall establish and maintain such purchasing facilities and procedures as may be necessary to carry out the intent and purpose of this article by complying with the requirements for competitive bidding in the operation and management of each state trade school, state junior college, state college, or university under the supervision and control of the state board of education, the city and county boards of education, the district boards

of education of independent schools districts, the county commissions, and the governing bodies of the municipalities of the state and the governing boards of instrumentalities of counties and municipalities, including waterworks boards, sewer boards, gas boards, and other like utility boards and commissions.

“(d) Contracts entered into in violation of this article shall be void and anyone who violates the provisions of this article shall be guilty of a Class C felony.”

Section 2. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved May 13, 1993

Time: 3:58 P.M.

Act No. 93-616

S. 407 – Senator Mitchell

AN ACT

To make a supplemental appropriation from the State Bar Association Fund to the Alabama State Bar Association for the fiscal year ending September 30, 1993.

Be It Enacted by the Legislature of Alabama:

Section 1. There is hereby appropriated from the State Bar Association Fund to the Alabama State Bar Association the sum of one hundred two thousand dollars (\$102,000) for the fiscal year ending September 30, 1993. This appropriation shall be in addition to any and all other funds appropriated to the State Bar Association.

Section 2. The provisions of this Act are severable. If any part of the Act is declared invalid or unconstitutional, such declaration shall not affect the part which remains.

Section 3. All laws or parts of laws which conflict with this Act are hereby specifically repealed.

Section 4. This Act shall become effective immediately upon its passage and approval of the Governor, or upon its otherwise becoming a law.

Approved May 13, 1993

Time: 3:59 P.M.

Act No. 93-617 S. 318 – Senators deGraffenried and Waggoner

AN ACT

To provide for the regulation and licensure of athletic trainers; to provide for an Athletic Trainers' Board; to prescribe civil procedures for appeals; to provide for a fund and for an appropriation; and to prescribe fines and penalties for the violation of this act.

Be It Enacted by the Legislature of Alabama:

Section 1. This act shall be known and may be cited as the "Alabama Athletic Trainers Licensure Act."

Section 2. The following words and phrases shall have the following meanings:

(1) **APPRENTICE ATHLETIC TRAINER.** A person who assists in the duties usually performed by an athletic trainer and who works under the direct supervision of a licensed athletic trainer.

(2) **ATHLETE.** A person who participates in an athletic activity being conducted by an educational institution, professional athletic organization, or a board sanctioned amateur athletic organization.

(3) **ATHLETIC INJURY.** An injury received by an athlete as a result of the preparation or participation of the athlete in an athletic activity.

(4) **ATHLETIC TRAINER.** A person licensed by the Alabama Board of Athletic Trainers as an athletic trainer and who practices athletic training on an athlete under the direction or referral, or both, of a licensed physician after meeting the requirements of this act and rules and regulations promulgated pursuant to this act.

(5) **ATHLETIC TRAINING PRACTICE.** Practice by an athletic trainer of any of the following:

a. Under physician direction or referral, or both, the prevention of athletic injuries.

b. The organization and administration of athletic training programs.

c. Athletic counseling and guidance and the education of athletes regarding athletics and athletic training.

d. Under physician direction and referral, the rehabilitation and reconditioning of an athlete.

e. Under physician supervision, the evaluation, the recognition, and management of athletic injuries.

(6) **BOARD.** The Alabama Board of Athletic Trainers.

(7) **PHYSICAL THERAPIST.** A physical therapist licensed by the Alabama State Board of Physical Therapy.

(8) **PHYSICIAN.** A physician licensed by the Medical Licensure Commission of Alabama.

(9) **PHYSICIAN SUPERVISION.** A licensed athletic trainer acting under the supervision of a physician if:

a. The activities are undertaken pursuant to a verbal or written order of the physician who has evaluated the injured athlete; and

b. The activity is undertaken in accordance with a written protocol signed by the physician which describes the athletic injury encountered and directs appropriate medical interventions consistent with the qualification, training, and experience of the licensed athletic trainer. The State Board of Medical Examiners shall establish minimum medical criteria for any protocol used by athletic trainers and shall specify those conditions and circumstances which require referral to the physician for further evaluation.

Section 3. (a) The Alabama Board of Athletic Trainers shall be composed of nine members who shall serve four-year terms. Members may not serve more than two consecutive four-year terms. Three members shall be black, one of whom shall be a physician member. The composition of the board shall be as follows:

(1) Six members appointed by the Alabama Athletic Trainers Association in accordance with subsection (b) below, one of whom shall be an athletic trainer who is a licensed physical therapist.

(2) Three physicians licensed to practice medicine actively engaged in the treatment of athletes and athletic injuries appointed by the Medical Association of the State of Alabama.

(b) The six athletic trainers shall be appointed by the Alabama Athletic Trainers Association. The association shall conduct an annual meeting at which all athletic trainers holding a current license as identified under this act shall have the right to attend, nominate, and vote. The association shall regulate and prescribe the date, hour, and place of the meeting, the method of nomination, and the manner of voting. At least 30 days prior to the meeting, the association shall mail notices to each current licensee at the address shown on the current registration notifying of the exact date, hour, and place of the meeting, the purpose of the meeting, and of the right to attend and vote. To qualify as a board member pursuant to this subsection, a person shall be a citizen of

the United States and have acted as an athletic trainer for three years within this state immediately preceding appointment.

(c) In making the initial appointments, the Alabama Athletic Trainers Association shall appoint one athletic trainer whose term will expire in 1994, two athletic trainers whose terms will expire in 1995, and one athletic trainer whose term will expire in 1996, and two athletic trainers whose terms will expire in 1997. The Medical Association of the State of Alabama shall appoint one physician whose term will expire in 1994, one physician whose term will expire in 1995, and one physician whose term will expire in 1996. All appointments expire on December 31 of the year specified.

(d) Each appointee to the board shall qualify by taking an oath of office within 15 days from the date of the appointment. On presentation of the oath, the Secretary of State shall issue commissions to appointees as evidence of their authority to act as members of the board. In the event of death, resignation, or removal of any member, the vacancy of the unexpired term shall be filled by the appropriate association in the same manner as other appointments.

(e) The board shall elect a chair, a vice-chair, and secretary from its members for a term of one year and may appoint any committees and formulate any rules it considers necessary to carry out its duties pursuant to this act. The board shall meet at least twice each year. Additional meetings may be held on the call of the chair or at the written request of any two members of the board. The secretary shall keep a record of the proceedings of the board. The board may promulgate and adopt rules and regulations consistent with this act which are necessary for the performance of its duties. The State Board of Medical Examiners and the Alabama Board of Athletic Trainers shall jointly approve any rule, regulation, or policy that interprets, explains, or enumerates the permissible acts, functions, or services rendered by an athletic trainer or apprentice athletic trainer as those acts, functions, and services are defined in Section 2 of this act. Any rule, regulation, or policy adopted in violation of this requirement is invalid. The board shall prescribe application forms for license applications. The board shall adopt an official seal and a license certificate of suitable design.

Section 4. No person shall use the title "athletic trainer," "certified athletic trainer," or "licensed athletic trainer," or use the letters "LAT," "ATC," or "AT," or any other facsimile thereof, whether or not compensation is received or expected, unless the person is licensed as an athletic trainer in this state pursuant to this act.

Section 5. Any person seeking licensure as an athletic trainer shall meet at least one of the following requirements:

(1) Satisfactorily complete all of the National Athletic Trainers' Association (NATA) Board of Certification, Inc., qualifications and be certified as an athletic trainer in good standing by the National Athletic Trainers' Association Board of Certification, Inc.

(2) The board shall grant, without examination, licensure to any qualified trainer holding a license certificate or registration in another state if that state meets the minimum qualifications of this act. If the other state accepts licenses of this state in the same manner, the license shall be granted under reciprocity.

Section 6. An athletic trainer, functioning under the supervision of a physician, may use therapeutic exercise and modalities for the treatment of athletic injuries for which he or she has received appropriate training or education.

Section 7. (a) Any person actively engaged as an athletic trainer on the effective date of this act shall be issued a license certificate if the athletic trainer submits proof of three years of experience as an athletic trainer within the preceding five-year period, receives approval by the board, and pays the license certificate fee as determined by the board. For the purpose of this section, a person is actively engaged as an athletic trainer if the person is employed on a salaried basis for the duration of the institution's school year, or the length of the athletic organization's season, and was hired and performs the duties of an athletic trainer as the major responsibility of employment. One year from the effective date of this act, application for a license certificate pursuant to this subsection shall not be permitted.

(b) The board shall grant licensure to any physical therapist who has satisfactorily completed all of the American Physical Therapy Association (APTA) qualifications as a board certified sports physical therapist (SCS). Three years from the effective date of this act, application for a licensure certificate pursuant to this subsection shall not be permitted.

(c) The board may grant licensure to a licensed physical therapist who submits experience and educational training as an athletic trainer within the preceding five-year period if the person performed duties as an athletic trainer as a significant responsibility. One year from the effective date of this subsection, application for licensure pursuant to this subsection shall not be permitted.

Section 8. Continuing education requirements are mandated, as outlined by the National Athletic Trainers' Association (NATA) Board of Certification, Inc., and approved by the board for license renewal, and shall be fulfilled during three-year periods running concurrently with the requirement to maintain certification through

the Alabama Board of Athletic Trainers. Proof of the completion of continuing education as required by this section shall be submitted to the board within 30 days of the completion or proof that the continuing education requirements have been filed with the National Athletic Trainers' Association.

Section 9. (a) Nothing in this act shall be construed as preventing or restricting any of the following persons from engaging in the profession or occupation for which they are licensed, certified, or registered in Alabama as follows:

(1) Physicians and surgeons licensed by the Medical Licensure Commission of Alabama.

(2) Dentists licensed by the State Board of Dental Examiners.

(3) Optometrists licensed by the State Board of Optometry.

(4) Nurses licensed by the Alabama Board of Nursing.

(5) Chiropractors licensed by the State Board of Chiropractic Examiners.

(6) Podiatrists licensed by the State Board of Podiatry.

(7) Physical therapists licensed by the State Board of Physical Therapy.

(8) Occupational therapists licensed by the State Board of Occupational Therapy.

(9) Emergency medical technicians licensed by the State Department of Public Health.

(b) This act shall not apply to the following persons:

(1) Coaches and physical education instructors in the performance of their duties.

(2) Apprentice athletic trainers who confine themselves to the duties prescribed in this act.

(3) Athletic trainers from other nations, states, or territories performing their duties for their respective teams or organizations and only during the course of their team's or organization's stay in this state.

(4) A person who performs any of the services set forth in this act as long as the person does not violate this act.

Section 10. The board may refuse to issue a license certificate to any person and, after notice and hearing pursuant to its regulations and rules, may suspend or revoke the license certificate of any person who has done any of the following:

(1) Practiced athletic training other than under the direction or referral, or both, of a physician licensed to practice medicine or surgery.

(2) Uses drugs or intoxicating liquors to an extent which affects professional competency.

(3) Obtained or attempted to obtain a license by fraud or deception.

(4) Been grossly negligent in the practice of athletic training.

(5) Been adjudged mentally incompetent by a court of competent jurisdiction.

(6) Been guilty of conduct detrimental to the best interest of the public.

(7) Has been imprisoned for violating any state or federal controlled substance law.

(8) Treated or undertaken to treat human ailments otherwise than by athletic training and according to standards established by the board.

(9) Advertised unethically according to standards as set by the board.

(10) Failed or refused to obey any lawful order or regulation of the board.

(11) Unlawful invasion of the field of practice of any other profession.

Section 11. (a) Any person whose application for a license is denied is entitled to a hearing before the board if the person submits a written request to the board. Proceedings for revocation or suspension of a license shall be commenced by filing charges with the board in writing and under oath. The charges may be made by any person or persons. The secretary shall fix a time and place for a hearing and shall cause a written copy of the charges or reason for denial of a license, together with a notice of the time and place fixed for hearing to be served on the applicant requesting the hearing or the licensee against whom the charges have been filed at least 20 days prior to the date set for the hearing. Service of charges and notice of hearing may be given by certified mail to the last known address of the licensee or applicant. At the hearing, the applicant or licensee has the right to appear either personally or by counsel, or both, to produce witnesses, to have subpoenas issued by the board, and to cross-examine the opposing or adverse witnesses. The board is not bound by the strict rules of procedure or by the laws of evidence in the conduct of the proceedings, but

the determination shall be founded upon sufficient legal evidence to sustain it. The board shall determine the charges on their merits and enter an order in a permanent record setting forth the findings of fact and law, and the action taken. On application, the board may reissue a license to a person whose license has been cancelled or revoked, but the application may not be made prior to the expiration of a period of six months after the order of cancellation or revocation has become final; and the application shall be made in the manner and form as the board may require.

(b) A person whose application for a license has been refused or whose license has been cancelled, revoked, or suspended by the board may take an appeal, within 30 days after the order is entered in the judicial circuit of his or her residence or in the Montgomery County Circuit Court, to any court of competent jurisdiction.

(c) Appeal from the judgment of the court lies as in other civil cases.

Section 12. Any person who violates any provision of this act is guilty of a Class B misdemeanor, and, upon conviction, shall be punished and fined, or both, as provided by law.

Section 13. Any person who holds a license pursuant to this act as an athletic trainer may use the words "athletic trainer" or "licensed athletic trainer," and may use the letters "LAT" in connection with his or her name to denote his or her licensure as an athletic trainer.

Section 14. There is hereby created in the state treasury a fund to be known as the Athletic Trainers Fund. All receipts of the Alabama Athletic Trainers Board shall be deposited into this fund. The expenses incurred by the Alabama Athletic Trainers Board in carrying out the provisions of this act shall be paid out of the Athletic Trainers Fund by warrant of the comptroller upon the treasurer upon itemized vouchers, approved by the chair of the board. No funds shall be withdrawn or expended except as budgeted and allotted according to Sections 41-4-80 to 41-4-96 and Sections 41-19-1 to 41-19-12, inclusive, Code of Alabama 1975, and only in amounts as stipulated in the general appropriations act or other appropriations acts.

Section 15. There is appropriated from the Athletic Trainers Fund to the board for fiscal year 1992-93 and fiscal year 1993-94, such amounts as are deemed necessary by the board to fund the costs of its operations. This appropriation is in addition to any other appropriation heretofore or hereafter made.

Section 16. Nothing in this act shall authorize an athletic trainer or apprentice athletic trainer to engage in the practice of

medicine; to diagnose, treat, or cure any human disease, illness, ailment, infirmity, pain, or other condition which is not an athletic injury; to perform surgery of any type or description; or to prescribe any drug or medical device.

Section 17. An athletic trainer employed in a physical therapy clinic shall work under the supervision of a licensed physical therapist in the context of an employer/employee relationship in accordance with physician supervision of the athletic trainer.

Section 18. The Alabama Board of Athletic Trainers is subject to the provisions of the Alabama Sunset Law of 1981, shall be classified an enumerated agency under Section 41-10-3, Code of Alabama 1975, and shall terminate on October 1, 1997, unless continued as therein provided. If continued, the board shall be reviewed every four years thereafter and terminated unless continued by the law.

Section 19. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved May 13, 1933

Time: 4:00 P.M.

Act No. 93-618

S. 207 – Senator Foshee

AN ACT

To provide further for the administration, powers, and duties of the Legislative Reference Service by amending Sections 29-7-2, 29-7-4, 29-7-5, and 29-7-6 and repealing Section 29-7-3 of the Code of Alabama 1975.

Be It Enacted by the Legislature of Alabama:

Section 1. Sections 29-7-2, 29-7-4, 29-7-5, and 29-7-6 of the Code of Alabama 1975, are amended to read as follows:

“§29-7-2.

“The Legislative Reference Service shall be under the supervision, direction, and control of an officer designated as the Director of the Legislative Reference Service. The director shall be appointed by the Legislative Council provided for in Chapter 6 of this title at a salary determined by the Legislative Council, payable as the salaries of other state employees.

“§29-7-4.

"(a) The Director of the Legislative Reference Service may hire, either subject to the State Merit System Law or without regard to the provisions thereof, staff members and clerical help necessary to effect the purposes of this chapter.

"(b) The compensation due to the officers and employees employed under this section shall be certified by the Director of the Legislative Reference Service to the Comptroller, who shall issue his or her warrant therefor.

"§29-7-5.

"(a) Any person employed by the Legislative Reference Service as a legislative analyst or in any similar position in the classified service of the state shall be compensated at a rate at least equal to the rates fixed for attorneys in comparable ranks in the classified service.

"(b) The Personnel Board or other authority charged with the duty of fixing the compensation scale for state employees shall provide that the pay scale for Legislative Analysts I shall begin at a minimum at least equal to the minimum then prescribed for Attorneys I and that likewise each intermediate rate in the salary range, and the maximum rate, shall be equal to or greater than the corresponding rate for Attorneys I. In like manner, the board or other authority shall also prescribe the minimum, intermediate, and maximum salary rates for Legislative Analysts II, III, and IV at a rate at least equal to the minimum, intermediate, and maximum salary rates prescribed for Attorneys II, III, and IV, respectively.

"§29-7-6.

"(a) The Director of the Legislative Reference Service shall have the following powers and duties:

"(1) To respond to questions concerning the organization and administration of state government or the operation of constitutional or statutory law.

"(2) To render assistance in the drafting of bills and amendments to bills.

"(3) To make studies and reports on problems of state and local government in Alabama, either upon request or on his or her own initiative.

"(4) To conduct a continuous analysis of the scope, effect, and methods of federal, state, and local government operations in Alabama and make those recommendations to the Legislative Council as he or she determines to be appropriate.

"(5) To prepare, when directed by the Legislature, a compilation or code of the statutes of Alabama.

"(6) To act as code commissioner in determining the content of the code and any supplements thereto and to prepare an annual codification bill to adopt changes to the code enacted at prior sessions of the Legislature.

"(7) To enter into a printing contract on behalf of the State of Alabama, when approved and directed by the Legislative Council, to publish the official code of the statutes of Alabama.

"(8) To perform any other tasks related to service to the Legislature of Alabama as may be required by the Legislative Council.

"(b) Requests for assistance under subdivisions (1) and (3) of subsection (a) shall be prepared only for a Member of the Legislature or the Lieutenant Governor, or a person authorized by a Member of the Legislature or the Lieutenant Governor. Requests for assistance under subdivision (2) of subsection (a) shall be prepared only for a Member of the Legislature, the Lieutenant Governor, or the Governor, or a person authorized by a Member of the Legislature, the Lieutenant Governor, or the Governor. A request for assistance made by a Member of the Legislative Council or a person authorized by a Member of the Legislative Council shall be given priority over any other request. A request for assistance made by a Member of the Legislature or a person authorized by a Member of the Legislature shall be given priority over any other requests other than by members of the Legislative Council. The director may respond to other requests for assistance, including, but not limited to, requests from other state governments, as he or she determines to be in the best interests of the state.

"(c) When responding to a request, the director and each officer and employee of the Legislative Reference Service shall maintain the attorney-client relationship with the person making the request. All requests for assistance and the contents thereof, including, but not limited to, the fact a request was made, any materials related to the request, and the work product related to the request, shall be confidential and privileged until released by the Member of the Legislature in whose name the request was made, the Lieutenant Governor, or the Governor.

"(d) In order that the purposes of this chapter shall be best served, each department and agency of state of Alabama government shall furnish to the Legislative Reference Service copies of all monthly, quarterly, annual, biennial, quadrennial, and other regular reports which it is required by law to prepare for other agents or officials of the state government and copies of all printed publications that it issues. Each department or agency of state of

Alabama government shall comply with requests for supplementary reports made by the Legislative Reference Service and approved by the Legislative Council. Each department and agency of state of Alabama government shall make its internal records available to the Legislative Reference Service upon request.

Section 2. Section 29-7-3 of the Code of Alabama 1975, is repealed.

Section 3. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved May 13, 1993

Time: 4:01 P.M.

Act No. 93-619

S. 356 – Senators Dixon, Foshee,
Ellis, and Waggoner

AN ACT

To amend §§36-27-25 and 16-25-20, Code of Alabama 1975, to provide for the investment of the funds of the Teachers' and Employees' Retirement Systems of Alabama, in accordance with the same terms and limitations set forth in the Employee Income and Security Act of 1974; to further amend §16-25-14, Code of Alabama 1975, to provide that optional retirement allowances selected by members of the Teachers' Retirement System shall become effective on the member's date of retirement.

Be It Enacted by the Legislature of Alabama:

Section 1. §36-27-25, Code of Alabama 1975, is hereby amended to read as follows:

“§36-27-25. Same—Management.

“(a) The board of control shall be the trustees of the several funds of the employees' retirement system created by this article as provided in section 36-27-24 and shall have full power to invest and reinvest such funds, through its secretary-treasurer in such classes of bonds, mortgages, common and preferred stocks, shares of investment companies or mutual funds or other investments as the board of control may from time to time approve, with the care, skill, prudence, and diligence under the circumstances then prevailing that a prudent man acting in a like capacity and familiar with such matters would use in the conduct of an enterprise of a like character and with like aims. Subject to like terms, conditions, limitations and restrictions, the board of control, through its secretary-treasurer, shall have full power to hold, purchase, sell, assign,

transfer and dispose of any such investments in which such funds created in section 36-27-24 shall have been invested as well as the proceeds of said investments and any moneys belonging to such funds.

“(b) The secretary-treasurer shall have the authority and it shall be his duty to carry out the investment policies fixed by the board of control and, pursuant thereto, he shall examine all offers of investments made to such funds, shall initiate inquiries as to available investments therefor, shall review periodically the investment quality and desirability of retention of investments held and shall from time to time make such purchases and sales of investments as he shall deem to the best interests of such funds and as the investment committee provided for in subsection (c) of this section and as the consultant to the secretary-treasurer, if any, appointed by the board of control under subsection (d) of this section, to the extent of the purpose for which it is appointed, shall approve.

“(c) The board of control shall appoint an investment committee which shall consist of three members of the board, one of whom shall be the director of finance. The investment committee shall consider all investment recommendations made by the secretary-treasurer and shall either approve or disapprove the same. The investment committee may act through the affirmative vote of any two of its members. Approvals may be secured informally in advance but shall in any event be confirmed by written authorization to be attached to the invoice for the transaction.

“(d) The board of control may appoint and employ as consultant to the secretary-treasurer in the purchase, sale and review of investments of said funds, to such extent as the board may designate, **a bank having its principal office in the state of Alabama**, having capital, surplus and undivided profits of not less than \$3,000,000.00, and having an organized investment department. The bank so appointed shall not sell securities to the retirement system other than U.S. government securities, for which no commission shall be charged.

“(e) The secretary-treasurer shall report to the board of control all purchases and sales of investments made by him pursuant to this section at least once semiannually.

“(f) The board of control shall allow annually regular interest on the mean amount for the preceding year in each of the funds, with the exception of the expense fund. The amounts so allowed shall be due and payable to said funds and shall be credited annually thereto by the board of control from interest and other earnings on the moneys of the retirement system. Any additional

amount required to meet the interest on the funds of the retirement system shall be paid from the pension accumulation fund, and any excess of earnings over such amount required shall be paid to the pension accumulation fund. Regular interest shall mean such percentage rate or rates to be compounded annually as shall be set from time to time by the board of control, such rate or rates to be limited to a minimum of three percent and a maximum of four and three-fourths percent.

“(g) Funds accruing to the annuity savings fund, the annuity reserve fund, the pension accumulation fund and the pension reserve fund shall be certified by the secretary-treasurer for deposit in the state treasury to the credit of the employees’ retirement system. All moneys provided in accordance with the provisions of this chapter for administrative expenses shall be certified for deposit in the state treasury to the credit of the employees’ retirement system expense fund. All payments from said funds shall be made by the state treasurer on warrants drawn by the state comptroller upon vouchers signed by two persons designated by the board of control. A duly attested copy of the resolution of the board of control designating such persons and bearing on its face specimen signatures of such persons shall be filed with the state comptroller as his authority for drawing warrants upon such voucher.

“(h) Except as otherwise provided in this article, no member of the board of control and no employee of the board shall have any direct interest in the gains or profits of any investment made by the board nor as such receive any pay or emolument for his services. No member or employee of the board of control shall, directly or indirectly, for himself or as an agent in any manner use the same, except to make such current and necessary payments as are authorized by the board, nor shall any member or employee of the board of control become an endorser or surety or in any manner an obligor for moneys loaned to or borrowed from the board.”

Section 2. §16-25-20, Code of Alabama 1975, is hereby amended to read as follows:

“§16-25-20. Management of funds.

“(a) (1) The board of control shall be the trustees of the several funds of the teachers’ retirement system created by this chapter as provided in section 16-25-21, and shall have full power to invest and reinvest such funds, through its secretary-treasurer, in such classes of bonds, mortgages, common and preferred stocks, shares of investment companies or mutual funds or other investments as the board of control may from time to time approve, with the care, skill, prudence, and diligence under the circumstances then prevailing that a

prudent man acting in a like capacity and familiar with such matters would use in the conduct of an enterprise of a like character and with like aims; and, subject to like terms, conditions, limitations and restrictions, the board of control, through its secretary-treasurer, shall have full power to hold, purchase, sell, assign, transfer and dispose of any such investments in which such funds created herein shall have been invested, as well as the proceeds of said investments and any moneys belonging to such funds.

“(2) The secretary-treasurer shall have the authority and it shall be his duty to carry out the investment policies fixed by the board of control, and pursuant thereto he shall examine all offers of investments made to such funds, shall initiate inquiries as to available investments therefor, shall review periodically the investment quality and desirability of retention of investments held and shall from time to time make such purchases and sales of investments as he shall deem to be the best interests of such funds and as the investment committee hereinafter provided for, and as the consultant to the secretary-treasurer, if any, appointed by the board of control hereunder, to the extent of the purpose for which it is appointed, shall approve.

“(3) The board of control shall elect an investment committee which shall consist of three members of the board, one of whom shall be the director of finance. The investment committee shall consider all investment recommendations made by the secretary-treasurer and shall either approve or disapprove the same. The investment committee may act through the affirmative vote of any two of its members, except however that in the event said investment in any one enterprise exceeds the sum of \$500,000.00, an affirmative vote of all three members of the investment committee must be had. Approvals may be secured informally in advance but shall in any event be confirmed by written authorization to be attached to the invoice of the transaction.

“(4) The board of control may appoint and employ as consultant to the secretary-treasurer, in the purchase, sale and review of investments of said funds, to such extent as the board may designate, a bank having its principal office in the state of Alabama, having capital, surplus and undivided profits of not less than \$3,000,000.00, and having an organized investment department. The bank so appointed shall not sell securities to the retirement system, other than United States government securities for which no commission shall be charged.

“(5) The secretary-treasurer shall report to the board of control all purchases and sales of investments made by him pursuant hereto at least once semiannually.

“(b) The board of control shall allow annually regular interest on the mean amount for the preceding year in each of the funds,

with the exception of the expense fund. The amounts so allowed shall be due and payable to said funds and shall be credited annually thereto by the board of control from interest and other earnings on the moneys of the retirement system. Any additional amount required to meet the interest on the funds of the retirement system shall be paid from the pension accumulation fund, and any excess of earnings over such amount required shall be paid to the pension accumulation fund. Regular interest shall mean such percent rate or rates to be compounded annually as shall be set from time to time by the board of control, such rate or rates to be limited to a minimum of three percent and a maximum of four and three-fourths percent.

“(c) Moneys accruing to the annuity savings fund, the annuity reserve fund, the pension accumulation fund and the pension reserve funds shall be certified by the secretary-treasurer for deposit in the state treasury to the credit of the teachers’ retirement system. All moneys provided in accordance with the provisions of this chapter for administrative expense shall be certified for deposit in the state treasury to the credit of the teachers’ retirement system expense fund. All payments from said funds shall be made by the state treasurer on warrants drawn by the state comptroller upon vouchers signed by two persons designated by the board of control. A duly attested copy of a resolution of the board of control designating such persons and bearing on its face specimen signatures of such persons shall be filed with the state comptroller as his authority for drawing warrants upon such vouchers. No voucher shall be drawn unless it has previously been authorized by resolution of the board of control or included in the budget adopted by the board.

“(d) Except as otherwise herein provided, no member of the board of control and no employee of the board shall have any direct interest in the gains or profits of any investment made by the board, nor as such receive any pay or emolument for his services. No member or employee of the board of control shall, directly or indirectly, for himself or as an agent, in any manner use the same, except to make such current and necessary payments as are authorized by the board; nor shall any member or employee of the board of control become an endorser or surety or in any manner an obligor for moneys loaned or borrowed from the board.”

Section 3. §16-25-14, Code of Alabama 1975, is hereby amended to read as follows:

“§16-25-14. Retirement of members; benefits generally.

“(a) (1) Any member who withdraws from service upon or after attainment of age 60 may retire upon written application to

the board of control setting forth at what time, not less than 30 days nor more than 90 days subsequent to the execution and filing thereof, he desires to be retired; provided, that any such member who became a member on or after October 1, 1963, shall have completed 10 or more years of creditable service.

"(2) Any member who has attained age 60 and has previously withdrawn from service may retire upon written application to the board of control setting forth at what time, not less than 30 days nor more than 90 days subsequent to the execution and filing thereof, he desires to be retired; provided, that the said member shall have completed at the time for his withdrawal from service the requirements established by the board of control for eligibility for deferred benefits pursuant to section 16-25-3.

"(3) Any person who is presently covered or is eligible to be covered under the employees' retirement system of Alabama or the teachers' retirement system of Alabama and who, prior to such coverage or eligibility for coverage, served as head of any Alabama county's public library service department shall have credited to him or her one year of creditable service for each year served as such head, not to exceed 12 years; provided, that such person shall pay into the retirement system the employee's part of the cost or contribution based on the salary paid to such person during the time of his or her service in the above capacity, with such cost or contribution to be calculated at the percent or rate in effect on October 1, 1973.

"(4) Any member of the teachers' retirement system of Alabama, who withdraws from service after the completion of at least 25 years of creditable service, may retire upon written application to the board of control of the teachers' retirement system setting forth at what time, not less than 30 days nor more than 90 days subsequent to the execution and filing thereof, he desires to be retired; provided, that any such member who became a member on or after October 1, 1963 shall have completed 10 or more years of creditable service.

"(b) Upon retirement from service, a member shall receive a service retirement allowance which shall consist of:

"(1) An annuity which shall be the actuarial equivalent of his accumulated contributions at the time of his retirement;

"(2) A pension which shall be equal to the annuity allowable at the age of retirement, but not to exceed an annuity allowable at age 65 computed on the basis of contributions made prior to the attainment of age 65; and

"(3) If he has a prior service certificate in full force and effect, an additional pension which shall be equal to the annuity which

would have been provided at age of retirement, but not to exceed an annuity allowable at age 65 by twice the contributions which he would have made during the period of prior service with which he is credited had the system been in operation and had he contributed thereunder. In lieu of a determination of the actual compensation of the members that was received during such prior service, the board of control may use for the purposes of this chapter the compensation rates which, if they had progressed with the rates of salary increase shown in the tables as prescribed in subsection (o) of section 16-25-19, would have resulted in the same average salary of the member for the five years immediately preceding the date of establishment as the records show the member actually received.

“(c) The annual service retirement pension payable to a member retiring on or after October 1, 1975, shall not be less than an amount which when added to his annuity is equal to the greater of the following two amounts:

“(1) Two and one-eightieth percent of the member’s average final compensation multiplied by the number of years of his creditable service; or

“(2) If he became a member before October 1, 1971, \$72.00 multiplied by the number of years of his creditable service not in excess of 25 years.

“Notwithstanding, a member who retired prior to October 1, 1971, under service retirement shall receive \$120.00 multiplied by the number of years of his creditable service not in excess of 25 years.

“(d) Upon the application of a member in service or of his employer, any member who has had 10 or more years of creditable service may be retired by the board of control on a disability retirement allowance not less than 30 nor more than 90 days next following the date of filing such an application; provided, that the medical board, after a medical examination of such member, shall certify that such member is mentally or physically incapacitated for further performance of duty, that such incapacity is likely to be permanent and that such member should be retired.

“(e) Upon retirement for disability, a member shall receive a service retirement allowance if he has attained age 60 or if any law or part of any law pertaining to retirement under the teachers’ retirement system of Alabama provides for service retirement after the completion of 25 years of creditable service and the member has completed 25 years of creditable service; otherwise, he shall receive a disability retirement allowance which shall consist of:

“(1) An annuity which shall be the actuarial equivalent of his accumulated contributions at the time of retirement; and

"(2) A pension which shall be equal to the pension that would have been payable under subdivisions (2) and (3) of subsection (b) of this section upon service retirement at age 60 had the member continued in service to said age without change in compensation, reduced by one fourth of one percent for each month by which his date of retirement precedes his sixtieth birthday to a maximum reduction of 25 percent.

"The annual disability retirement pension shall not be less than an amount which when added to his annuity is equal to the greater of the following amounts:

"a. Two and one-eightieth percent of the member's average final compensation multiplied by the number of years of creditable service reduced by one fourth of one percent for each month by which his date of retirement precedes his sixtieth birthday to a maximum reduction of 25 percent;

"b. If he became a member before October 1, 1971, \$54.00 multiplied by the number of years of his creditable service not in excess of 25 years; or

"c. If any law or part of any law pertaining to retirement under the teachers' retirement system of Alabama provides for service retirement after the completion of 25 years of creditable service, two and one-eightieth percent of the member's average final compensation multiplied by the number of years of creditable service reduced by one fourth of one percent for each month less than 25 years of creditable service up to a maximum of 25 percent.

"Notwithstanding, a member who retired prior to October 1, 1971, for disability shall receive \$90.00 multiplied by the number of years of his creditable service not in excess of 25 years.

"(f) (1) Once each year during the first five years following the retirement of a member on a disability retirement allowance and once in every three-year period thereafter, the board of control may and upon his application shall require any disability beneficiary who has not yet attained age 60 to undergo a medical examination, such examination to be made at the place of residence of such beneficiary or other place mutually agreed upon by a physician of or designated by the medical board. Should any disability beneficiary who has not yet attained age 60 refuse to submit to such medical examination, his pension may be discontinued until his withdrawal of such refusal, and should his refusal continue for one year, all his rights in and to his pension may be revoked by the board of control.

"(2) Should the medical board report and certify to the board of control that a disability beneficiary is engaged in or is able to

engage in a gainful occupation paying more than the difference between his retirement allowance and his average final compensation and should the board of control concur in such report, then the amount of his pension shall be reduced to an amount which, together with his annuity and the amount earnable by him, shall equal the amount of his average final compensation. Should his earning capacity be later changed, the amount of his pension may be further modified; provided, that the new pension shall not exceed the amount of the pension originally granted nor an amount which, when added to the amount earnable by the beneficiary together with his annuity, equals the amount of his average final compensation.

“(g) (1) Should a member cease to be a teacher, except by death or by retirement under the provisions of this chapter, the contributions standing to the credit of his individual account in the annuity savings fund shall be paid to him upon demand, and in addition to such payment there shall be paid five tenths of the interest accumulations standing to the credit of his individual account if he shall have not less than three but less than 16 years of membership service, six tenths of such interest accumulations if he shall have not less than 16 but less than 21 years of membership service, seven tenths of such interest accumulations if he shall have not less than 21 but less than 26 years of membership service and eight tenths of such interest accumulations if he shall have not less than 26 years of membership service.

“(2) In case of the death of a member eligible for service retirement pursuant to subsection (a) of this section, an allowance shall be paid to the surviving spouse, or to such other person who the member shall have specifically designated for the receipt of such benefit rather than the spouse, in an amount that would have been payable if the member had retired immediately prior to his death and had elected option 3, as set forth in subsection (h) of this section or, alternatively, if the surviving spouse or other designee desires, he may choose to receive, in lieu of the allowance provided under option 3, the accumulated contributions of the member plus an amount equal to the accumulated contributions of the member not to exceed \$5,000.00 or the accumulated contributions of the member plus the benefit provided by section 36-27B-3 if a benefit is payable under such section.

“(3) In case of the death of a member not eligible for service retirement after completion of 25 years of creditable service, an allowance shall be paid to the surviving spouse, or to such other person who the member shall have specifically designated for the receipt of such benefit rather than the spouse, in an amount that would have been payable if the member had retired for disability

immediately prior to his death and had elected option 3, as set forth in subsection (h) of this section or, alternatively, if the surviving spouse or other designee desires, he may choose to receive, in lieu of the allowance provided under option 3, the accumulated contributions of the member plus an amount equal to the accumulated contributions of the member not to exceed \$5,000.00 or the accumulated contributions of the member plus the benefit provided by section 36-27B-3 if a benefit is payable under such section.

“(4) Upon the death of a member on account of whom no survivor allowance is payable under subdivision (2) or (3) of this subsection, the accumulated contributions of the member plus an amount equal to the accumulated contributions not to exceed \$5,000.00 or the accumulated contributions of the member plus the benefit provided by section 36-27B-3 if a benefit is payable under such section shall be paid to his estate or to such person as he shall have nominated by written designation duly executed and filed with the board of control.

“(h) With the provision the election of an option shall be effective on the effective date of retirement, any member may elect prior to retirement to receive, in lieu of his retirement allowance payable throughout life, the actuarial equivalent at that time of his retirement allowance in a reduced retirement allowance payable throughout life with the provision that:

“(1) Option 1. – If he dies before he has received in annuity payments the present value of his annuity as it was at the time of his retirement, the balance shall be paid to his legal representatives or to such person as he shall nominate by written designation duly acknowledged and filed with the board of control;

“(2) Option 2. Upon his death, his reduced retirement allowance shall be continued throughout the life of and paid to such person as he shall nominate by written designation duly acknowledged and filed with the board of control at the time of his retirement;

“(3) Option 3. – Upon his death, one half of his reduced retirement allowance shall be continued throughout the life of and paid to such person as he shall nominate by written designation duly acknowledged and filed with the board of control at the time of his retirement; or

“(4) Option 4. – Some other benefit or benefits shall be paid either to the member or to such person or persons as he shall nominate; provided, that such other benefit or benefits, together with the reduced retirement allowance, shall be certified by the actuary to be of equivalent actuarial value to his retirement allowance and shall be approved by the board of control.

“(i) (1) Should any beneficiary be restored to active service from service retirement or from disability retirement on or after attainment of age 50, his retirement allowance shall be suspended until he again withdraws from service and, he shall not again become a member, nor shall he make contributions; except, that should such beneficiary who has been restored to active service continue in service for a period of two or more years from the date of his reentry into active service, he may request the board of control to allow him to again become a member of the retirement system. The board of control may grant the request for restoration to membership; provided, that such beneficiary whose retirement allowance has been suspended shall repay to the system all monies received by him as benefits during any period subsequent to the date of his reentry into active service; provided further, that he shall make a contribution equal to the amount he would have contributed had he been a member during the period of his restoration to active service on a suspended allowance basis, together with the interest which would have been credited to the contributions on account of such period of restoration up to the date such contribution is made.

“(2) Should any beneficiary on disability retirement be restored to active service before reaching age 50, he shall again become a member of the retirement system and shall make contributions.

“(j) (1) All retirement allowance payments due on or after October 1, 1975 to members who retired prior to October 1, 1975 shall be redetermined as if the provisions of subsections (b) and (e) of this section which became effective on said date were in effect at the time the member retired; provided, that the annual retirement allowance of any member who retired on or before January 1, 1956 shall be not less than \$132.00 multiplied by the number of years of his creditable service not in excess of 30 years in the case of service retirement or \$99.00 multiplied by the number of years of creditable service not in excess of 30 years in the case of disability retirements. Any increase provided in the retirement allowance payment under this subsection for a member who retired under the provisions of any optional benefit elected pursuant to subsection (h) of this section shall accrue only to the retired member, and no person designated to receive any payments after the death of a retired member under the provisions of any such optional benefit shall receive any increase in such payments under this subsection.

“(2) Any person who served at least 30 years as a teacher in the public schools of Alabama and was never a member of the system and who, prior to October 1, 1963, was in receipt of a benefit for old age assistance pursuant to subsections (1) and (2) of section

1 of Act 116, approved August 24, 1959, shall be entitled to receive an annual retirement allowance of \$3,960.00 from the system, effective as of October 1, 1973.

“(3) Prior to October 31, 1975 any beneficiary may elect to leave on deposit with the system all or a specified part of any increase in his monthly retirement allowance payments arising in accordance with subdivision (1) or (2) of this subsection. The portion of each monthly payment left in the system in accordance with such election shall be credited, together with regular interest thereon, to the individual account of such beneficiary. Upon the death of such beneficiary, the total amount standing to his credit, including regular interest to the date of death, shall be paid in a lump sum to his legal representative or to such person as he shall have nominated by written designation duly acknowledged and filed with the board of control.”

Section 4. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved May 13, 1993

Time: 4:02 P.M.

Act No. 93-620

H. 284 – Rep. Harper

AN ACT

To amend Section 36-26-8, Code of Alabama 1975, relating to the duties of the Director of the State Personnel Department, to remove the requirement that the director annually publish the names and addresses of all state employees.

Be It Enacted by the Legislature of Alabama:

Section 1. Section 36-26-8, Code of Alabama 1975, is amended to read as follows:

“§36-26-8.

“(a) The director, as executive head of the department, shall direct and supervise all its administrative and technical activities.

“(b) It shall be the duty of the director to:

“(1) Attend all meetings of the board, act as its secretary, and record its official actions.

“(2) Appoint, with the approval of the board, such employees of the department and such experts and special assistants as necessary to carry out effectively this article.

“(3) Prepare and recommend rules and regulations for the administration of this article.

“(4) Recommend and, on its adoption, establish, administer, and execute a classification plan for the state service.

“(5) Submit to the governor, after its approval by the board, a pay plan for all positions in the state service.

“(6) Conduct tests, formulate employment registers and certify persons qualified for appointment, devise and administer employee service ratings and develop employee welfare and training programs.

“(7) Recommend and, upon adoption by the board, administer an in-service training program.

“(8) Approve all payrolls or other compensations for personal services within the state service before they may be lawfully authorized for payment.

“(9) Establish and maintain a roster of all the officers and employees in the state service.

“(10) Make such investigations pertaining to personnel, salary scales, and employment conditions in the state service as may be requested by the board, the governor or the legislature.

“(11) Make investigations concerning the administration and effect of this article and the rules made thereunder and report the findings and recommendations to the board.

“(12) Make an annual report to the board.

“(13) Perform any other act required under this article or required by the board which may be necessary to effect its purposes and spirit.

“(14) Appoint one employee of the department to be deputy. In case of the absence of the director or his or her inability to discharge the powers and duties of the office, such powers and duties shall devolve upon the deputy, who shall be a citizen of Alabama.

“(15) Select officers or employees in the state service to act as examiners in the preparation and rating of tests. An authority may excuse any employee from regular duties for the time required for work as an examiner. Officers and employees shall not be entitled to extra pay for service as examiners but shall be entitled to reimbursement for necessary traveling and other expenses.

“(c) The director may join or subscribe to any association or service having as its purpose the interchange of information relating to the improvement of personnel administration.

“(d) Subject to approval of the personnel board, the director may enter into agreements with any municipality or other political subdivision of the state to furnish services and facilities of the department to the municipality or political subdivision in the administration of its personnel on merit principles. Any agreement shall provide for the reimbursement to the state of the reasonable cost of the services and facilities furnished as determined by the director. All municipalities and political subdivisions of the state may enter into those agreements. Funds obtained as reimbursement for services shall be deposited into the accounts of the state personnel department and may be expended to help defray the expenses of the department.

“(e) The director may cooperate with governmental agencies for other jurisdictions within this state charged with personnel administration in conducting joint tests for establishing lists from which eligibles shall be certified for appointment in accordance with the provisions of their respective laws.”

Section 2. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved May 13, 1993

Time: 4:10 P.M.

Act No. 93-621

H. 312 – Rep. Powell

AN ACT

To amend Sections 22-25-1, 22-25-2, 22-25-7, 22-25-9, 22-25-11, 22-25-12, 22-25-14, and 22-25-15, Code of Alabama 1975, relating to the regulation of water and wastewater systems and treatment plants; to permit the Department of Environmental Management to also regulate public wastewater collection systems; to provide for operator certification; and to relieve the appropriate district attorney of certain enforcement duties.

Be It Enacted by the Legislature of Alabama:

Section 1. Sections 22-25-1, 22-25-2, 22-25-7, 22-25-9, 22-25-11, 22-25-12, 22-25-14, and 22-25-15, Code of Alabama 1975, are amended to read as follows:

“§22-25-1.

“For the purposes of this chapter, the following terms shall have the meanings respectively ascribed to them by this section:

“(1) BOARD. The Alabama department of environmental management.

“(2) CERTIFICATE. The certificate of competency issued by the director stating that the operator has met the requirements for the specified operator classification of the certification program.

“(3) DIRECTOR. The director of the Alabama department of environmental management.

“(4) OPERATOR. The person on duty who has direct responsibility for the operation of a water treatment plant, water distribution system, public wastewater collection system, or wastewater treatment plant.

“(5) PUBLIC WASTEWATER COLLECTION SYSTEM. The system of pipes, structures, and facilities through which wastewater, municipal sewage, or wastes of a liquid nature is received, collected, stored, transported, or delivered into a wastewater treatment plant.

“(6) TRAINEE. The person on duty who has direct responsibility for the operation of a water treatment plant, water distribution system, public wastewater collection system, or wastewater treatment plant and is serving in a training capacity for a maximum of one year without a certificate.

“(7) WASTEWATER TREATMENT PLANT. The facility or group of units used for the treatment of wastewater from public wastewater collection systems and for the reduction or handling of solids removed from such wastewater.

“(8) WATER DISTRIBUTION SYSTEMS. That portion of the water supply system in which water is conveyed from the water treatment plant or other supply point to the premises of the consumer.

“(9) WATER SUPPLY SYSTEM. The system of pipes, structures, and facilities through which a public water supply is obtained, treated and sold, or distributed for human consumption or household use, as defined by subdivision (12) of section 22-23-31.

“(10) WATER TREATMENT PLANT. That portion of the water supply system which in some way alters the physical, chemical, or bacteriological quality of the water.

“§22-25-2.

The director shall classify all water treatment plants, water distribution systems, wastewater treatment plants, and public wastewater collection systems affecting the public welfare with regard to the size, type, character of water and wastewater to be treated, and

other physical conditions affecting the treatment plants and distribution systems; and according to the skill, knowledge, and experience that an operator must have to supervise the operation of the facilities to protect the public health and prevent pollution.

“§22-25-7.

“The director shall certify persons as to their qualifications to supervise the operation of treatment plants and water distribution and public wastewater collection systems after considering the recommendations of the board.

“§22-25-9.

“(a) When the director is satisfied that an applicant is qualified, by examination or otherwise, the director shall issue a certificate attesting to the competency of the applicant as an operator. The certificate shall indicate the classification of works which the operator is qualified to supervise.

“(b) Certificates of proper classifications shall be issued without examination to persons certified by a governing body or owner to have been the operator of a treatment plant or a water distribution system on September 28, 1971. A certificate so issued will be valid only for that particular treatment plant or system, but shall remain in effect three years, unless revoked by the director as provided in this chapter. All certificates shall be renewed every three years.

“(c) Certificates in appropriate classification shall be issued to operators who, on September 28, 1971, hold certificates of competency attained by examination under the voluntary certification program sponsored jointly by the state department of health and the Alabama water and pollution control association.

“§22-25-11.

“Certificates issued pursuant to this chapter shall continue in effect for three years from the date of issuance or renewal, unless sooner revoked by the director, but these certificates shall remain the property of the board and the certificates shall so state. The board may promulgate rules and regulations requiring continuing education and training as a condition of certificate renewal. Prior to expiration, application for renewal, which shall include evidence of required continuing education and training, shall be filed with the appropriate renewal fee.

“§22-25-12.

“The director may revoke the certificate of an operator, upon recommendation of the board, when any of the following are found:

“(1) The operator has practiced fraud or deception in obtaining the certificate.

“(2) The operator in the performance of his or her duties did not use reasonable care, judgment, or the application of his or her knowledge or ability.

“(3) The operator is incompetent or unable to properly perform his or her duties as an operator.

“(4) The operator has failed to maintain certification requirements.

“§22-25-14.

It shall be unlawful for any person, firm, corporation, municipal corporation, or other governmental subdivision or agency operating a water treatment plant, water distribution system, wastewater treatment plant, or public wastewater collection system to operate same unless the competency of the operator to operate the plant or system is duly certified to by the director under the provisions of this chapter. It shall also be unlawful for any person, except a trainee as defined in section 22-25-1, to perform the duties of an operator without being duly certified under the provisions of this chapter. The provisions of this chapter, however, shall not be applicable to the owner or operator of a water treatment plant, water distribution system, wastewater treatment plant or public wastewater collection system that does not offer service to the public generally.

“§22-25-15.

“In addition to the provisions of Section 22-22A-5, any person, including any firm, corporation, municipal corporation, water or sewer board, water authority, or other governmental subdivision or agency, violating any provisions of this chapter, or the rules and regulations adopted thereunder, after written notice thereof by the director, shall be guilty of a misdemeanor. Each day of operation in such violation of this chapter or any rules or regulations adopted thereunder shall constitute a separate offense. Upon conviction, such persons shall be fined not exceeding \$100.00 or be imprisoned in the county jail for not more than 30 days, or by both such fine and imprisonment.

Section 2. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved May 13, 1993

Time: 4:11 P.M.

Act No. 93-622

H. 318 – Rep. Turner

AN ACT

To amend Section 32-5A-195 to provide that court hearings be held in circuit court.

Be It Enacted by the Legislature of Alabama:

Section 1. Section 32-5A-195, Code of Alabama 1975, is hereby amended to read as follows:

“§32-5A-195.

“(a) The director of public safety is hereby authorized to cancel any driver’s license upon determining that the licensee was not entitled to the issuance thereof hereunder or that said licensee failed to give the correct or required information in his application. Upon such cancellation the licensee must surrender the license so cancelled. If such licensee refuses to surrender such license, he shall be guilty of a misdemeanor.

“(b) The privilege of driving a motor vehicle on the highways of this state given to a nonresident hereunder shall be subject to suspension or revocation by the director of public safety in like manner and for like cause as a driver’s license issued hereunder may be suspended or revoked.

“(c) The director of public safety is further authorized, upon receiving a record of the conviction in this state of a nonresident driver of a motor vehicle of any offense, to forward a certified copy of such record to the motor vehicle administrator in the state wherein the person so convicted is a resident.

“(d) When a nonresident’s operating privilege is suspended or revoked, the director of public safety shall forward a certified copy of the record of such action to the motor vehicle administrator in the state wherein such person resides.

“(e) The director of public safety is authorized to suspend or revoke the license of any resident of this state or the privilege of a nonresident to drive a motor vehicle in this state upon receiving notice of the conviction of such person in another state of any offense therein which, if committed in this state, would be grounds for the suspension or revocation of the license of a driver.

“(f) The director of public safety may give such effect to conduct of a resident in another state as is provided by the laws of this state had such conduct occurred in this state.

“(g) Whenever any person is convicted of any offense for which this chapter makes mandatory the revocation of the license of such

person by the department, the court in which such conviction is had shall require the surrender to it of any driver's license then held by the person convicted and the court shall thereupon forward the same together with a record of such conviction to the director of public safety.

"(h) Every court having jurisdiction over offenses committed under this article or any other law of this state or municipal ordinance adopted by a local authority regulating the operation of motor vehicles on highways, shall forward to the director of public safety within 10 days a record of the conviction of any person in said court for a violation of any said laws other than regulations governing standing or parking, and may recommend the suspension of the driver's license of the person so convicted.

"(i) For the purposes of this article the term "conviction" shall mean a final conviction. Also, for the purposes of this article an unvacated forfeiture of bail or collateral deposited to secure a defendant's appearance in court, a plea of nolo contendere accepted by the court, the payment of a fine, a plea of guilty or a finding of guilt of a traffic violation charge, shall be equivalent to a conviction regardless of whether the penalty is rebated, suspended or probated.

"(j) The director of public safety shall forthwith revoke the license of any driver upon receiving a record of such driver's conviction of any of the following offenses:

"(1) Manslaughter or homicide by vehicle resulting from the operation of a motor vehicle;

"(2) Upon a first conviction of driving or being in actual physical control of any vehicle while under the influence of alcohol or under the influence of a controlled substance to a degree which renders him incapable of safely driving or under the combined influence of alcohol and a controlled substance to a degree which renders him incapable of safely driving, such revocation shall take place only when ordered by the court rendering such conviction;

"(3) Upon a second or subsequent conviction within a five-year period, of driving or being in actual physical control of any vehicle while under the influence of alcohol or under the influence of a controlled substance to a degree which renders him incapable of safely driving or under the combined influence of alcohol and a controlled substance to a degree which renders him incapable of safely driving;

"(4) Any felony in the commission of which a motor vehicle is used;

"(5) Failure to stop, render aid, or identify himself as required under the laws of this state in the event of a motor vehicle accident resulting in the death or personal injury of another;

“(6) Perjury or the making of a false affidavit or statement under oath to the director of public safety under this article or under any other law relating to the ownership or operation of motor vehicles;

“(7) Conviction upon three charges of reckless driving committed within a period of 12 months;

“(8) Unauthorized use of a motor vehicle belonging to another which act does not amount to a felony.

“(k) The director of public safety is hereby authorized to suspend the license of a driver without preliminary hearing upon a showing by its records or other sufficient evidence that the licensee:

“(1) Has committed an offense for which mandatory revocation of license is required upon conviction;

“(2) Has been convicted with such frequency of serious offenses against traffic regulations governing the movement of vehicles as to indicate a disrespect for traffic laws and a disregard for the safety of other persons on the highways;

“(3) Is an habitually reckless or negligent driver of a motor vehicle, such fact being established by a record of accidents, or by other evidence;

“(4) Is incompetent to drive a motor vehicle;

“(5) Has permitted an unlawful or fraudulent use of such license;

“(6) Has committed an offense in another state which if committed in this state would be grounds for suspension or revocation;

“(7) Has been convicted of fleeing or attempting to elude a police officer; or

“(8) Has been convicted of racing on the highways.

“(l) Upon suspending the license of any person as hereinbefore in this section authorized, the director of public safety shall immediately notify the licensee in writing and upon his request shall afford him an opportunity for a hearing as early as practicable, not to exceed 30 days after receipt of such request in the county wherein the licensee resides unless the director of public safety and the licensee agree that such hearing may be held in some other county. Such hearing shall be before the director of public safety or his duly authorized agent. Upon such hearing the director of public safety or his duly authorized agent may administer oaths and may issue subpoenas for the attendance of witnesses in the production of relevant books and papers and may require a

reexamination of the licensee. Upon such hearing the director of public safety or his duly authorized agent shall either rescind its order of suspension or, good cause appearing therefor, may continue, modify or extend the suspension of such licensee or revoke such license. If the license has been suspended as a result of the licensee's driving while under the influence of alcohol, the director or his agent conducting the hearing shall take into account, among other relevant factors, the licensee's successful completion of any duly established "highway intoxication seminar", "DWI counterattack course" or similar educational program designed for problem drinking drivers. If the hearing is conducted by a duly authorized agent instead of by the director of public safety himself, the action of such agent must be approved by the director of public safety.

"(m) The director of public safety shall not suspend a driver's license or privilege to drive a motor vehicle upon the public highways for a period of more than one year, except as permitted under section 32-6-19.

"(n) At the end of the period of suspension a license surrendered to the director of public safety under subsection (o) shall be returned to the licensee.

"(o) The director of public safety upon cancelling, suspending or revoking a license shall require that such license be surrendered to and be retained by the director of public safety. Any person whose license has been cancelled, suspended or revoked shall immediately return his license to the director of public safety. If such licensee refuses to surrender such license, he shall be guilty of a misdemeanor.

"(p) Any resident or nonresident whose driver's license or privilege to operate a motor vehicle in this state has been suspended or revoked as provided in this section shall not operate a motor vehicle in this state under a license or permit issued by any other jurisdiction or otherwise during such suspension or after such revocation until a new license is obtained when and as permitted under this article.

"(q) Any person denied a license or whose license has been cancelled, suspended or revoked by the director of public safety except where such cancellation or revocation is mandatory under the provisions of this article shall have the right to file a petition within 30 days thereafter for a hearing in the matter in the, circuit court in the county wherein such person resides, or in the case of cancellation, suspension or revocation of a nonresident's operating privilege in the county in which the main office of the director of public safety is located, and such court is hereby vested with jurisdiction and it shall be its duty to set the matter for hearing upon

30 days' written notice to the director of public safety, and thereupon to take testimony and examine into the facts of the case and to determine whether the petitioner is entitled to a license or is subject to suspension, cancellation or revocation of license under the provisions of this section.

Section 2. This Act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved May 13, 1993

Time: 4:12 P.M.

Act No. 93-623

H. 347 – Rep. Carothers

AN ACT

To amend Sections 36-21-60, 36-21-61, and 36-21-63, Code of Alabama 1975, relating to the Peace Officers' Annuity and Benefit Fund, to further provide for membership on the Board of Commissioners.

Be It Enacted by the Legislature of Alabama:

Section 1. Sections 36-21-60, 36-21-61, and 36-21-63, Code of Alabama 1975, are amended to read as follows:

“§36-21-60.

“When used in this article, the following words and phrases shall have the following meanings, respectively, unless the context clearly indicates otherwise:

“(1) ALABAMA SHERIFF’S ASSOCIATION. The Alabama Sheriff’s Association, as now or hereafter constituted.

“(2) ASSOCIATION. The Alabama peace officers’ association, as now or hereafter constituted.

“(3) ASSOCIATION OF CHIEFS OF POLICE. The Alabama association of chiefs of police, as now or hereafter constituted.

“(4) BOARD. The board of commissioners of the fund and any successors thereto.

“(5) EXECUTIVE DIRECTOR. The executive director of the board.

“(6) FUND. The Alabama peace officers’ annuity and benefit fund created in section 36-21-66.

"(7) **MEMBER.** Any peace officer who is a member of the fund and who is in good standing by virtue of having paid all sums required by this article to be paid by him.

"(8) **MEMBERSHIP SERVICE.** The period of employment of a member as a peace officer from the date he or she becomes a member.

"(9) **MONTH.** A period of 30 days.

"(10) **ORDER.** The fraternal order of police.

"(11) **PEACE OFFICER.** A person duly sworn as a peace officer of the state of Alabama possessing powers of arrest and employed by the state, any political subdivision thereof, or any municipal corporation therein who is required by the terms of employment, whether the employment exists by virtue of election or appointment, to give full time to the preservation of public order and the protection of life or property or the detection of crime in the state. The term shall include enforcement officers for conservation laws, full-time coroners, and any pardon, parole, or probation officer, but shall not include any district attorney, assistant district attorney, assistant attorney general, commissioner, deputy commissioner, or any municipal inspector, county inspector, or state inspector.

"(12) **PRIOR SERVICE.** The period of employment of a member as a peace officer from the time of initial employment as a peace officer to September 12, 1969.

"(13) **QUALIFIED SERVICE.** The prior service plus membership service of a member.

"(14) **STATE.** The state of Alabama.

"(15) **STATE POLICE ASSOCIATION.** The Alabama State Police Association, as now or hereafter constituted.

"(16) **STATE TROOPER ASSOCIATION.** The Alabama state trooper association, inc., as now or hereafter constituted.

"(17) **YEAR.** A period of 365 days. The last year of employment as a peace officer, when over six months of membership service, shall constitute a year toward service retirement."

"§36-21-61.

"There is created a board to be known as the board of commissioners of the Alabama peace officers' annuity and benefit fund. The board shall consist of seven persons, one appointed by the governor of the state for a period of six years, one elected by the members of the association to serve for a period of four years, one elected by the members of the order to serve for a period of four years, one elected

by the members of the state trooper association, inc., to serve for a period of four years, one designated by the association of chiefs of police, one elected by the State Police Association to serve for a period of four years, and one elected by the Alabama Sheriff's Association, to serve for a period of four years. The first person elected by the association shall serve for a period of two years. Thereafter, each member of the board elected by the association shall serve for a period of four years. Any member of the board shall be eligible to succeed himself or herself. The term of each person appointed or elected to the board shall begin on the date of appointment or election, and any person so appointed or elected whose successor shall not have been appointed or elected shall continue to serve until the appointment or election of a successor. Any member of the board elected by the association or the order who shall cease to be a member of the association or order, as the case may be, during his or her incumbency shall be replaced as a member of the board by a member of the association or order, as the case may be, who shall be appointed by its executive committee for the then unexpired term."

"§36-21-63.

"A majority of the members of the board shall constitute a quorum sufficient for the transaction of any business, and no business shall be transacted by the board and no action taken unless a quorum is present. The members of the board shall elect a chairman of the board and select an executive director, who shall be the chief executive officer of the board. The chairman of the board shall be a member of the board, but the executive director need not be a member. The executive director shall serve at the pleasure of the board, which may employ other agents and employees as the board may deem necessary. Any employees of the board shall be subject to the **Alabama Merit System Act**. The executive director shall be compensated for services in an amount to be fixed by the board. The executive director shall have the powers and authority as shall be delegated by the board and shall perform the services as the board may direct. Any member of the board and any employee thereof who handles funds of the board shall be bonded by a surety company qualified to do business in the state in amounts sufficient to protect the board against any loss which may be incurred with respect to the funds handled."

Section 2. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved May 13, 1993

Time: 4:13 P.M.

Act No. 93-624

H. 101 – Rep. White

AN ACT

To amend Section 9-11-53 of the Code of Alabama 1975, relating to the annual freshwater fishing license; to further authorize any person to fish in a private pond without a license.

Be It Enacted by the Legislature of Alabama:

Section 1. Section 9-11-53 of the Code of Alabama 1975, is amended to read as follows:

“§9-11-53.

“(a) Any person who has been a bona fide resident of this state for a period of not less than 90 days next preceding and who is between the ages of 16 and 65 shall not take, catch, kill or attempt to take, catch, or kill any fish in any of the waters of this state above that line defined in Rule 220-2-.42 (1) of the Department of Conservation and Natural Resources as published in the Alabama Administrative Code, as well as below that line in any of the ponds or lakes containing freshwater fish, subject to the exceptions contained herein, by angling with rod and reel or by use of any artificial bait, fly, or lure without first procuring an annual freshwater fishing license and paying therefor the sum of eight dollars and fifty cents (\$8.50). Any resident angling with hook and line in the waters of this state outside his or her county of residence shall procure the annual freshwater fishing license. Any resident who procures a rod and reel license, however, shall be entitled to fish with a hook and line without the necessity of procuring an additional license. These licenses shall be issued in the manner and under the conditions, limitations, and exemptions as expressly provided for in this section.

“(b) A fishing license shall not be transferable, and it shall be unlawful to borrow, lend, or alter any fishing license or for any license-issuing officer to backdate any license at the time of issuing the license.

“(c) Any citizen of this state who is entitled to purchase a fishing license as provided for in this section may procure a license by applying to any judge of probate, license commissioner, or other persons authorized and designated to issue fishing licenses, stating his or her name, age, place of residence, and post office address, and paying to the issuing officer the amount required in this section for the license. Judges of probate, license commissioners, or other persons authorized and designated to issue fishing licenses shall be entitled to a fee of one dollar (\$1) for each license so issued, which fee shall be in addition to the amount designated in this section as the cost of the license. All fees collected by any judge of probate or license commissioner who is

paid a salary for the performance of his or her duties shall be paid into the county treasury to the credit of the appropriate fund.

“(d) All persons under the age of 16 years shall be exempted from the requirement of procuring a license. Any resident of this state over 65 years of age shall be exempted from the requirement of procuring a fishing license as provided for in this section, provided that the resident has on his or her person while fishing, a driver’s license, or, in the case of nondrivers, proof of permanent Alabama residence and age.

“The Department of Conservation and Natural Resources is directed to enter into a reciprocal agreement with the State of Florida to exempt residents of Alabama over 65 years of age from the requirement of procuring a license in Florida by exempting residents of Florida over 65 years of age from the requirement of procuring a license in Alabama.

“(e) The licenses required by this section shall not apply to any person who fishes in a private pond. The license required by this section shall not apply to any person fishing with an ordinary hook and line in his or her county of residence. A person who fishes with ordinary hook and line in his or her own county of residence shall be required to have on his or her person, while so fishing, a reasonable proof of residency in the county. In addition, the licenses required by this section shall not apply to persons exempt from fishing license requirements while fishing at commercial fee fishing ponds pursuant to the provisions of Article 17 of Chapter 11 of Title 9.

“(f) The revenue derived from the sale of the license provided for in this section shall be remitted to the Department of Conservation and Natural Resources on the first day of each month by the issuing officer and shall be deposited into the State Treasury to the credit of the game and fish fund and shall be used in the construction, maintenance, development, and supervision of public fishing lakes, for the purchase of lands to be used for public landings on public streams and for the development, protection, propagation, and distribution of fish and wildlife of this state.

“(g) Any person who violates this section shall be guilty of a misdemeanor and, upon conviction thereof, shall be punished by a fine of not less than fifty dollars (\$50) nor more than two hundred fifty dollars (\$250) for each offense.”

Section 2. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved May 13, 1993

Time: 4:14 P.M.

Act No. 93-625

H. 460 – Rep. Layson

AN ACT

To amend Sections 2-8-281 and 2-8-282 of the Code of Alabama 1975, by allowing payments of assessments on catfish producers to be paid not later than the last day of each quarter of the year.

Be It Enacted by the Legislature of Alabama:

Section 1. Sections 2-8-281 and 2-8-282 of the Code of Alabama 1975, are amended to read as follows:

“§2-8-281.

“In the event the required number of catfish producers approve by a referendum as provided in this article the levying of an assessment upon the sale of catfish feed for a promotional program, the commissioner of agriculture and industries shall within 30 days, notify in writing every person licensed to sell or distribute catfish feed under authority of section 2-21-19, that on or after the date designated in the notice, which shall be not less than 30 nor more than 60 days after the mailing of the notice by the commissioner of agriculture and industries, the amount of the assessment shall be levied on the sale of catfish feed by all distributors of catfish feed or by their agents or representatives from the purchase price paid to the seller of the feed where the feed is purchased within the state. All assessments so levied shall be remitted to the commissioner of agriculture and industries not later than the last day of January, April, July and October of each year. The books and records of all such distributors of catfish feed shall at all times during regular business hours be open for inspection by the commissioner of agriculture and industries or his or her duly authorized representatives or agents for the purpose of ascertaining the accuracy of the amounts remitted as required by this section. The commissioner of agriculture and industries shall deduct from all sums remitted to him or her under this section, to defray the expense incident to collection and administration of this article, an amount to be set by the board of agriculture and industries, but the amount shall not exceed three percent of the sum remitted. All amounts so deducted by the commissioner shall be paid into the state treasury to the credit of the agricultural fund.”

“§2-8-282.

“The commissioner of agriculture and industries shall remit to the treasurer of the certified association all moneys paid to or collected by him or her not later than the last day of January, April, July and October of each year, less an amount not to exceed three

percent of the total amount so collected, which commission shall be deposited in the agricultural fund of the state treasury. The amount remitted to the treasurer of the certified association shall be used and expended by the association for the promotional program in the manner provided by this article and the rules and regulations of the association."

Section 2. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved May 13, 1993

Time: 4:15 P.M.

Act No. 93-626

H. 224 – Rep. Harper

AN ACT

To make an appropriation from the Alabama Special Educational Trust Fund to the Alabama Humanities Foundation for the fiscal year ending September 30, 1994, and to require an audited financial statement and operations plan prior to release of any funds.

Be It Enacted by the Legislature of Alabama:

Section 1. There is hereby appropriated for the fiscal year ending September 30, 1994 the sum of \$100,000 from the Alabama Special Educational Trust Fund to the Alabama Humanities Foundation. In addition, there is also hereby conditionally appropriated the sum of \$50,000 to be conditioned on the availability of funds in the Alabama Special Educational Trust Fund, the recommendation of the Finance Director and upon approval of the Governor.

Section 2. Prior to release of any funds appropriated under this bill for fiscal year 1993-94, an operations plan for fiscal year 1993-94 and an audited financial statement for all operations during fiscal year 1991-92 must be forwarded to the Director of Finance. It is the intent to release fiscal year 1993-94 funds following receipt of these reports.

Section 3. This act shall become effective on October 1, 1993.

Approved May 13, 1993

Time: 4:16 P.M.

Act No. 93-627

H. 93 – Rep. Campbell

AN ACT

To amend Sections 41-22-5, 41-22-6, 41-22-12, 41-22-20, 41-22-22, and 41-22-23 of the Code of Alabama 1975, the Alabama Administrative Procedure Act; to provide further for the notice and comment period for rulemaking, time period for adoption during rulemaking, and the time period for review by the legislative committee; to provide in contested cases for limited discovery and the issuance of subpoenas in contested cases under certain circumstances; and to provide further for judicial review from contested cases.

Be It Enacted by the Legislature of Alabama:

Section 1. Sections 41-22-5, 41-22-6, 41-22-12, 41-22-20, 41-22-22, and 41-22-23 of the Code of Alabama 1975, are amended to read as follows:

“§41-22-5.

“(a) Prior to the adoption, amendment, or repeal of any rule, the agency shall:

“(1) Give at least 35 days’ notice of its intended action. Date of publication in the Alabama Administrative Monthly shall constitute the date of notice. The notice shall include a statement of either the terms or substance of the intended action or a description of the subjects and issues involved, shall specify a notice period ending not less than 35 days or more than 90 days from the date of the notice, during which period interested persons may present their views thereon, and shall specify the place where, and the manner in which interested persons may present their views thereon. The notice shall be given to the chairman of the legislative committee, as provided in section 41-22-23, and mailed to all persons who pay the cost of such mailing and who have made timely request of the agency for advance notice of its rulemaking proceedings and shall be published, prior to any action thereon, in the Alabama Administrative Monthly. A complete copy of the proposed rule shall be filed with the secretary of the agency and the legislative reference service.

“(2) Afford all interested persons reasonable opportunity to submit data, views, or arguments, orally or in writing. The agency shall consider fully all written and oral submissions respecting the proposed rule. Upon adoption of a rule, the agency, if conflicting views are submitted on the proposed rule, shall issue a concise statement of the principal reasons for and against its adoption, incorporating therein its reasons for overruling any considerations urged against its adoption.

“(b) Notwithstanding any other provision of this chapter to the contrary, if an agency finds that an immediate danger to the

public health, safety, or welfare requires adoption of a rule upon fewer than 35 days' notice or that action is required by or to comply with a federal statute or regulation which requires adoption of a rule upon fewer than 35 days' notice and states in writing its reasons for that finding, it may proceed without prior notice or hearing or upon any abbreviated notice and hearing that it finds practicable, to adopt an emergency rule. The rule shall become effective immediately, unless otherwise stated therein, upon the filing of the rule and a copy of the written statement of the reasons therefor with the legislative reference service and the secretary of the agency. The rule may be effective for a period of not longer than 120 days and shall not be renewable. An agency shall not adopt the same or a substantially similar emergency rule within one calendar year from its first adoption unless the agency clearly establishes it could not reasonably be foreseen during the initial 120-day period that such emergency would continue or would likely reoccur during the next nine months. The adoption of the same or a substantially similar rule by normal rule making procedures is not precluded. In any subsequent action contesting the effective date of a rule adopted pursuant to this subsection, the burden of proof shall be on the agency to justify its finding. Prior to indexing and publication, the agency shall make reasonable efforts to apprise the persons who may be affected by its rules of the adoption of the emergency rule.

"(c) It is the intent of this section to establish basic minimum procedural requirements for the adoption, amendment, or repeal of administrative rules. Except for emergency rules which are provided for in subsection (b) of this section, the provisions of this section are applicable to the exercise of any rulemaking authority conferred by any statute, but nothing in this section repeals or diminishes additional requirements imposed by law or diminishes or repeals any summary power granted by law to the state or any agency thereof.

"(d) No rule adopted after October 1, 1982, is valid unless adopted in substantial compliance with this section. A proceeding to contest any rule on the ground of noncompliance with the procedural requirements of this section must be commenced within two years from the effective date of the rule; provided, however, that a proceeding to contest a rule based on failure to provide notice as herein required may be commenced at any time.

"§41-22-6.

"(a) Each agency shall have an officer designated as its secretary and shall file in the office of the secretary of the agency a certified copy of each rule adopted by it, including all rules, as defined in this chapter, existing on the effective date of this act. Each rule

or regulation promulgated, whether the original or a revision, and all copies thereof, shall have the name or names of the author or authors, respectively, on its face. The secretary of the agency shall keep a permanent register of the rules open to public inspection.

“(b) The secretary of each agency shall file in the office of the legislative reference service, no later than 15 days after the filing with the secretary of the agency and within 90 days after completion of the notice, in a form and manner prescribed by the legislative reference service, a certified copy of each rule adopted by it. As used in this section, ‘completion of notice’ means the end of the notice period specified pursuant to subdivision (1) of subsection (a) of Section 41-22-5. A rule that is not filed with the Legislative Reference Service within the time limits prescribed in this subdivision is invalid. The legislative reference service shall keep a permanent register of the rules open to public inspection.

“(c) Each rule hereafter adopted is effective 35 days after filing with the legislative reference service, unless it is:

“(1) A rule for which a later date is required by statute or specified in the rule.

“(2) A rule for which an earlier date is required by statute.

“(3) An emergency rule adopted pursuant to subsection (b) of Section 41-22-5.

“(4) A rule which the committee disapproves of or proposes an amendment for pursuant to Section 41-22-23.”

“§41-22-12.

“(a) In a contested case, all parties shall be afforded an opportunity for hearing after reasonable notice in writing delivered either by personal service as in civil actions or by certified mail, return receipt requested. However, an agency may provide by rule for the delivery of such notice by other means, including, where permitted by existing statute, delivery by first class mail, postage prepaid, to be effective upon the deposit of the notice in the mail. Delivery of the notice referred to in this subsection shall constitute commencement of the contested case proceeding.

“(b) The notice shall include:

“(1) A statement of the time, place and nature of the hearing;

“(2) A statement of the legal authority and jurisdiction under which the hearing is to be held;

“(3) A reference to the particular sections of the statutes and rules involved; and

"(4) A short and plain statement of the matters asserted. If the agency or other party is unable to state the matters in detail at the time the notice is served, the initial notice may be limited to a statement of the issues involved. Thereafter, upon application, a more definite and detailed statement shall be furnished.

"(c) In a contested case, on motion of a party, the presiding officer conducting the hearing may issue subpoenas, discovery orders related to relevant matters, and protective orders in accordance with the rules of civil procedure. The agency may set a reasonable fee by rule for the issuance of a subpoena to be paid by the moving party. Process issued pursuant to this subsection shall be enforced by a court in the same manner as process issued by the court. This subsection shall not apply to proceedings before the State Ethics Commission.

"(d) If a party fails to appear in a contested case proceeding after proper service of notice, the presiding officer may, if no adjournment is granted, proceed with the hearing and make a decision in the absence of the party.

"(e) Opportunity shall be afforded all parties to respond and present evidence and argument on all material issues involved and to be represented by counsel at their own expense. Provided, where the statutory determinative process is a multi-level or multi-step procedure, the opportunity to present evidence need be afforded the parties at only one level or step in the determination process, unless otherwise provided by statute establishing such determination process.

"(f) Unless precluded by statute, informal dispositions may be made of any contested case by stipulation, agreed settlement, consent order or default or by another method agreed upon by the parties in writing.

"(g) The record in a contested case shall include:

"(1) All pleadings, motions, and intermediate rulings;

"(2) All evidence received or considered and all other submissions; provided, in the event that evidence in any proceeding may contain proprietary and confidential information, steps shall be taken to prevent public disclosure of that information;

"(3) A statement of all matters officially noticed;

"(4) All questions and offers of proof, objections and rulings thereon;

"(5) All proposed findings and exceptions;

"(6) Any decision, opinion or report by the hearing officer at the hearing; and

"(7) All staff memoranda or data submitted to the hearing officer or members of the agency in connection with their consideration of the case unless such memoranda or data is protected as confidential or privileged; provided, if such memoranda or data contains information of a proprietary and confidential nature, it shall be protected by the agency from public disclosure.

"(h) Oral proceedings shall be open to the public, unless private hearings are otherwise authorized by law. Oral proceedings shall be recorded either by mechanized means or by qualified shorthand reporters. Oral proceedings or any part thereof shall be transcribed at the request of any party with the expense of the transcription charged to the requesting party. The recording or stenographic notes of oral proceedings or the transcription thereof shall be filed with and maintained by the agency for at least five years from the date of decision and shall be made available for inspection by the public, except in those cases where private hearings are authorized by law, or where the proceedings shall be ordered sealed by order of court, or are required to be sealed by statute.

"(i) Findings of fact shall be based solely on the evidence in the record and on matters officially noticed in the record."

"§41-22-20.

"(a) A person who has exhausted all administrative remedies available within the agency, other than rehearing, and who is aggrieved by a final decision in a contested case is entitled to judicial review under this chapter. A preliminary, procedural, or intermediate agency action or ruling is immediately reviewable if review of the final agency decision would not provide an adequate remedy.

"(b) All proceedings for review may be instituted by filing of notice of appeal or review and a cost bond with the agency to cover the reasonable costs of preparing the transcript of the proceeding under review, unless waived by the agency or the court on a showing of substantial hardship. A petition shall be filed either in the circuit court of Montgomery county or in the circuit court of the county in which the agency maintains its headquarters, or unless otherwise specifically provided by statute, in the circuit court of the county where a party other than an intervenor, resides or if a party, other than an intervenor, is a corporation, domestic or foreign, having a registered office or business office in this state, then in the county of the registered office or principal place of business within this state.

"(c) The filing of the notice of appeal or the petition does not itself stay enforcement of the agency decision. If the agency decision

has the effect of suspending or revoking a license, a stay or supersedeas shall be granted as a matter of right upon such conditions as are reasonable, unless the reviewing court, upon petition of the agency, determines that a stay or supersedeas would constitute a probable danger to the public health, safety, or welfare. In all other cases, the agency may grant, or the reviewing court may order, a stay upon appropriate terms, but, in any event, the order shall specify the conditions upon which the stay or supersedeas is granted; provided, however, if the appeal or proceedings for review to any reviewing court is from an order of the agency increasing or reducing or refusing to increase rates, fares, or charges, or any of them, or any schedule or parts of any schedule of rates, fares, or charges, the reviewing court shall not direct or order a supersedeas or stay of the action or order to be reviewed without requiring, as a condition precedent to the granting of such supersedeas, that the party applying for supersedeas or stay shall execute and file with the clerk of the court a bond as provided for and required by statute or law. If the circuit court shall fail or refuse to grant supersedeas or stay, the party seeking such relief may petition the appropriate court to which the appeal or review lies to order a supersedeas or stay of the action or order of the agency from which review is sought. After the required bond shall have been filed and approved by the clerk, such agency order shall be stayed and superseded, and it shall be lawful to charge the rates, fares or charges which have been reduced, refused or denied by the agency order, until the final disposition of the cause. The provisions of this subsection shall apply when applicable, anything in Rule 60 of the Alabama Rules of Civil Procedure restricting the provisions of this subsection to the contrary notwithstanding.

“(d) The notice of appeal or review shall be filed within 30 days after the receipt of the notice of or other service of the final decision of the agency upon the petitioner or, if a rehearing is requested under section 41-22-17, within 30 days after the receipt of the notice of or other service of the decision of the agency thereon. The petition for judicial review in the circuit court shall be filed within 30 days after the filing of the notice of appeal or review. Copies of the petition shall be served upon the agency and all parties of record. Any person aggrieved who is not a party may petition to become a party by filing a motion to intervene as provided in section 41-22-14. Failure to file such petition within the time stated shall operate as a waiver of the right of such person to review under this chapter, except that for good cause shown, the judge of the reviewing court may extend the time for filing, not to exceed an additional 30 days, or, within four months after the issuance of the agency order, issue an order permitting a review of the agency decision under this chapter notwithstanding such waiver. Any

notice required herein which is mailed by the petitioner, certified mail return receipt requested, shall be deemed to have been filed as of the date it is postmarked. This section shall apply to judicial review from the final order or action of all agencies, and amends the judicial review statutes relating to all agencies to provide a period of 30 days within which to appeal or to institute judicial review.

“(e) If there has been no hearing prior to agency action and the reviewing court finds that the validity of the action depends upon disputed facts, the court shall order the agency to conduct a prompt fact-finding proceeding under this chapter after having a reasonable opportunity to reconsider its determination on the record of the proceedings.

“(f) Unreasonable delay on the part of an agency in reaching a final decision shall be justification for any person whose rights, duties, or privileges are adversely affected by such delay to seek a court order compelling action by the agency.

“(g) Within 30 days after receipt of the notice of appeal or within such additional time as the court may allow, the agency shall transmit to the reviewing court the original or a certified copy of the entire record and transcript of the proceedings under review. With the permission of the court, the record of the proceedings under review may be shortened by stipulation of all parties to the review proceedings. Any party found by the reviewing court to have unreasonably refused to stipulate to limit the record may be taxed by the court for such additional costs as may be occasioned by the refusal. The court may require or permit subsequent corrections or additions to the record when deemed desirable.

“(h) The petition for review shall name the agency as respondent and shall contain a concise statement of:

“(1) The nature of the agency action which is the subject of the petition;

“(2) The particular agency action appealed from;

“(3) The facts and law on which jurisdiction and venue are based;

“(4) The grounds on which relief is sought; and

“(5) The relief sought.

“(i) In proceedings for judicial review of agency action in a contested case, except where appeal or judicial review is by a trial de novo, a reviewing court shall not itself hear or accept any further evidence with respect to those issues of fact whose determination was entrusted by law to the agency in that contested case proceeding;

provided, however, that evidence may be introduced in the reviewing court as to fraud or misconduct of some person engaged in the administration of the agency or procedural irregularities before the agency not shown in the record and the affecting order, ruling, or award from which review is sought, and proof thereon may be taken in the reviewing court. If, before the date set for hearing a petition for judicial review of agency action in a contested case, it is shown to the satisfaction of the court that additional evidence is material and that there were good reasons for failure to present it in the contested case proceeding before the agency, the court may remand to the agency and order that the additional evidence be taken before the agency upon conditions determined by the court. The agency may modify its findings and decision in the case by reason of the additional evidence and shall file that evidence and any modification, new findings, or decision with the reviewing court and mail copies of the new findings, or decision to all parties.

“(j) The review shall be conducted by the court without a jury and, except as herein provided, shall in the review of contested cases be confined to the record and the additions thereto as may be made under subsection (i) of this section. Judicial review shall be by trial de novo in the circuit court where review is sought from tax assessments, tax determinations or tax redeterminations, rulings of the revenue department granting, denying or revoking licenses, or rulings on petitions for tax refunds, or, unless a subsequent agency statute provides otherwise, where an agency statute existing on the effective date of Act No. 81-855, 1981 Acts of Alabama, or thereafter enacted provides for a trial de novo on appeal to or review by the courts; provided, however, in the review of tax assessments, tax determinations, or tax redeterminations, rulings of the revenue department granting, denying, or revoking licenses, or rulings on petitions for tax refunds, the administrative record and transcript shall be transmitted to the reviewing court as provided in subsection (g) of this section, and, on motion of either party, shall be admitted into evidence in the trial de novo, subject to the rights of either party to assign errors, objections, or motions to exclude calling attention to any testimony or evidence in the administrative record or transcript which is deemed objectionable or inadmissible. Provided further that, with the consent of all parties, judicial review may be on the administrative record and transcript. The court, upon request, shall hear oral argument and receive written briefs.

“(k) Except where judicial review is by trial de novo, the agency order shall be taken as prima facie just and reasonable and the court shall not substitute its judgment for that of the agency as to the weight of the evidence on questions of fact, except where otherwise authorized by statute. The court may affirm the agency

action or remand the case to the agency for taking additional testimony and evidence or for further proceedings. The court may reverse or modify the decision or grant other appropriate relief from the agency action, equitable or legal, including declaratory relief, if the court finds that the agency action is due to be set aside or modified under standards set forth in appeal or review statutes applicable to that agency or if substantial rights of the petitioner have been prejudiced because the agency action is any one or more of the following:

- “(1) In violation of constitutional or statutory provisions;
- “(2) In excess of the statutory authority of the agency;
- “(3) In violation of any pertinent agency rule;
- “(4) Made upon unlawful procedure;
- “(5) Affected by other error of law;
- “(6) Clearly erroneous in view of the reliable, probative, and substantial evidence on the whole record; or
- “(7) Unreasonable, arbitrary or capricious or characterized by an abuse of discretion or a clearly unwarranted exercise of discretion.

“(1) Unless the court affirms the decision of the agency, the court shall set out in writing, which writing shall become a part of the record, the reasons for its decision.”

“§41 22-22.

“(a) There shall be a joint standing legislative committee known as the joint committee on administrative regulation review, to review all agency rules. The committee shall consist of the members of the legislative council and shall meet on the call of the chairman. The chairman shall be authorized to name subcommittees to meet and review agency rules and report to the full committee. A quorum of the committee shall be the same as a quorum for the Legislative Council as set forth in Section 29-6-3. Members of the committee shall receive the same compensation, expenses, and transportation allowances for meetings as they receive for attendance at meetings of the legislative council. All such compensation and expenses authorized by the provisions of this section shall be paid from funds appropriated to the use of the legislative council.

“(b) The committee shall:

“(1) Maintain a continuous review of the statutory authority on which each administrative rule is based, and whenever such authority is eliminated or significantly changed by repeal, amendment, or other factor, advise the agency concerned of the fact;

“(2) Review administrative rules and advise the agencies concerned of its findings;

“(3) Have the further duties prescribed in section 41-22-23; and

“(4) The committee shall determine and report annually to the legislature the total cost to the state allocated to the implementation of this chapter.

“§41-22-23.

“(a) The notice required by subdivision (1) of subsection (a) of section 41-22-5 shall be given, in addition to the persons therein named, to the chairman of the legislative committee. The agency shall furnish the committee with 25 copies of the proposed rule or rules, and no rule, except an emergency rule issued pursuant to subsection (b) of section 41-22-5 shall be effective until these copies are so furnished. Any member of the senate or house of representatives who requests a copy of proposed agency rules from the chairman of the joint committee on administrative regulation review shall be provided a copy and the agency proposing rules shall furnish additional copies of the proposed rule or rules immediately. The form of the proposed rule presented to the committee shall be as follows: New language shall be underlined and language to be deleted shall be typed and lined through.

“(b) The committee shall study all proposed rules and, in its discretion, may hold public hearings thereon. In the event the committee fails to give notice to the agency of either its approval or disapproval of the proposed rule within 35 days after filing of the adopted rule with the Legislative Reference Service pursuant to Section 41-22-6, the committee shall be deemed to have approved the proposed regulation for the purposes of this section. In the event the committee disapproves a proposed rule or any part thereof, it shall give notice of such disapproval to the agency. Any disapproved rule shall be suspended until the adjournment of the next regular session of the legislature following the date of disapproval and suspension of the committee or until the legislature shall, by joint resolution, revoke the suspension of the committee. The rule shall be reinstated on the adjournment of the legislative session in the event the legislature, by joint resolution, fails to sustain the disapproval and suspension of the committee.

“(c) The committee may propose an amendment to any proposed rule and may disapprove the proposed rule and return it to the agency with the suggested amendment. In the event the agency accepts the rule as amended, the agency may resubmit the rule as amended to the committee. In the event the agency does not accept the amendment, the proposed amended rule shall be

submitted to the legislature as disapproved, as provided in section 41-22-24.

“(d) An agency may withdraw a proposed rule by leave of the committee. An agency may resubmit a rule so withdrawn or returned under this section with minor modification. Such a rule is a new filing and subject to this section but is not subject to further notice as provided in subsection (a) of section 41-22-5.

“(e) The committee is authorized to review and approve or disapprove any rule adopted prior to October 1, 1982.

“(f) A rule submitted to the committee which has an economic impact shall be accompanied by a fiscal note prepared by the agency in accordance with this subsection. Upon receiving the fiscal note, the committee may require additional information from the submitting agency, other state agencies, or other sources. A state agency shall cooperate and provide information to the committee. At a minimum, the fiscal note submitted with a proposed rule shall include the following:

“(1) A determination of the need for the regulation and the expected benefit of the regulation.

“(2) A determination of the costs and benefits associated with the regulation and an explanation of why the regulation is considered to be the most cost effective, efficient, and feasible means for allocating public and private resources and for achieving the stated purpose.

“(3) The effect of the regulation on competition.

“(4) The effect of the regulation on the cost of living and doing business in the geographical area in which the regulation would be implemented.

“(5) The effect of the regulation on employment in the geographical area in which the regulation would be implemented.

“(6) The source of revenue to be used for implementing and enforcing the regulation.

“(7) A conclusion on the short-term and long-term economic impact upon all persons substantially affected by the regulation, including an analysis containing a description of which persons will bear the costs of the regulation and which persons will benefit directly and indirectly from the regulation.

“(8) The uncertainties associated with the estimation of particular benefits and burdens and the difficulties involved in the comparison of qualitatively and quantitatively dissimilar benefits and burdens. A determination of the need for the regulation shall consider qualitative and quantitative benefits and burdens.

“(9) The effect of the regulation on the environment and public health.

“(10) The detrimental effect on the environment and public health if the regulation is not implemented.

“(g) In determining whether to approve or disapprove proposed rules, the committee shall consider the following criteria:

“(1) Would the absence of the rule or rules significantly harm or endanger the public health, safety, or welfare?

“(2) Is there a reasonable relationship between the state’s police power and the protection of the public health, safety, or welfare?

“(3) Is there another, less restrictive method of regulation available that could adequately protect the public?

“(4) Does the rule or do the rules have the effect of directly or indirectly increasing the costs of any goods or services involved and, if so, to what degree?

“(5) Is the increase in cost, if any, more harmful to the public than the harm that might result from the absence of the rule or rules?

“(6) Are all facets of the rulemaking process designed solely for the purpose of, and so they have, as their primary effect, the protection of the public?

“(7) Any other criteria the committee may deem appropriate.”

Section 2. This act shall become effective July 1, 1993.

Approved May 13, 1993

Time: 4:17 P.M.

Act No. 93-628

H. 739 – Rep. Campbell

AN ACT

Amends §22-35-1 et seq. Code of Alabama 1975 to authorize the assessment of an Underground and Aboveground Storage Tank Trust Fund Charge; to direct the Underground and Aboveground Storage Tank Trust Fund Charge to become the primary funding mechanism for the Alabama Underground and Aboveground Storage Tank Trust Fund; to provide coverage under the Fund for certain above-ground motor fuels storage tanks; and to clarify the benefits available under the fund for third-party claims.

Be It Enacted by the Legislature of Alabama:

Section 1. §22-35-1. Legislative findings and intent:

The legislature of the state of Alabama finds and declares that certain lands of Alabama constitute unique and delicately balanced resources; that the protection of these resources is vital to the economy of this state; and that the preservation of waters is a matter of the highest urgency and priority as these waters provide a primary source of potable water in this state; that such use can only be served effectively by maintaining the quality of waters in as close to a comparable previous condition as possible, taking into account multiple use accommodations necessary to provide the broadest possible promotion of public and private interests.

The legislature further finds that where contamination of soils or waters has occurred, remedial measures have often been delayed for long periods while determinations as to liability and the extent of liability are made; that such delays result in the continuation and intensification of the threat to the public health, safety, and welfare, in greater damages to the environment, and in significantly higher costs to contain and remove the contamination; and that adequate financial resources must be readily available to provide for the expeditious supply of safe and reliable alternative sources of potable water to affected persons and to provide a means for investigation and clean-up at contamination sites without delay.

The legislature intends for this chapter to provide evidence of financial responsibility for owners and operators of underground and aboveground storage tanks under the Resource Conservation and Recovery Act, subtitle I, the Superfund Amendments and Reauthorization Act of 1986 and other federal laws.

Section 2. §22-35-2. Short title.

This chapter may be cited as the "Alabama Underground and Aboveground Storage Tank Trust Fund Act."

Section 3. Section 22-35-3 Code of Alabama 1975 is hereby amended as follows:

§22-35-3. Definitions.

For the purposes of this chapter, unless otherwise indicated, the following terms shall have the meanings respectively ascribed to them by this section:

(1) Commission. The Alabama Environmental Management Commission.

(2) Department. The Alabama Department of Environmental Management.

(3) Director. The Director of the Alabama Department of Environmental Management.

(4) **Waters.** All waters of any river, stream, water course, pond, lake, coastal, ground, or surface waters wholly or partially within the state, natural or artificial.

(5) **Owners of an Underground or Aboveground Storage Tank:**

a. In the case of an underground storage tank in use on November 8, 1984, or brought into use after that date, or in the case of an aboveground storage tank in use on August 1, 1993, or brought into use after August 1, 1993, any person who owns an underground or aboveground storage tank used for the storage, use, or dispensing of motor fuels, and

b. In the case of an underground storage tank in use before November 8, 1984, but no longer in use on that date, or an aboveground storage tank in use before August 1, 1993, but no longer in use on that date, the present owner of such tank used for storage, use or dispensing of motor fuels, and any person who owned such tank immediately before the discontinuation of its use.

c. For the purposes of this chapter, the person who registers the underground or aboveground storage tank is, and shall be considered the owner.

(6) **Operator.** Any person in control of, or having responsibility for, the daily operation of an underground or aboveground storage tank.

(7) **Person.** Any natural person, any firm, association, partnership, corporation, trust, the State of Alabama and any agency of the State of Alabama, governmental entity, a consortium, a joint venture, a commercial entity and any other legal entity.

(8) **Release.** Any spilling, leaking, emitting, discharge, escaping, leaching, or disposing from any underground or aboveground storage tank into ground water, surface water or subsurface soils.

(9) **Motor Fuels.** All grades of gasoline including gasohol or any gasoline blend, number 1 diesel, number 2 diesel, kerosene and all aviation fuels.

(10) **Underground Storage Tank.** Any one or combination of tanks (including pipes connected thereto) used to contain an accumulation of motor fuels, and the volume of which (including the volume of the underground pipes connected thereto) is 10 percent or more beneath the surface of the ground.

(11) **Aboveground Storage Tank.** Any one or combination of stationary tanks affixed permanently to the ground or other support structure (including pipes connected thereto) used to contain an accumulation of motor fuels, the volume of which (including pipes connected thereto) is greater than 90 percent above the surface of the ground.

The terms Underground Storage Tank and Aboveground Storage Tank do not include any:

- a. Farm or residential tank of 1,100 gallons or less capacity used for storing motor fuel for noncommercial purposes;
- b. Tank used for storing heating oil for consumptive use on the premises where stored;
- c. Septic tank;
- d. Pipeline facility (including gathering lines) regulated under:
 - 1. The Natural Gas Pipeline Safety Act of 1968,
 - 2. The Hazardous Liquid Pipeline Safety Act of 1979, and
 - 3. An intrastate pipeline facility regulated under state laws comparable to the provisions of law in subparagraphs 1. or 2. of this paragraph;
- e. Surface impoundment, pit, pond, or lagoon;
- f. Stormwater or wastewater collection system;
- g. Flow-through process tank;
- h. Liquid trap or associated gathering lines directly related to oil or gas production and gathering operations;
- i. Storage tank situated in an underground area (such as a basement, cellar, mineworking, drift, shaft, or tunnel) if the storage tank is situated upon or above the surface of the floor; and
- j. Other underground storage tanks exempted by the administrator of the federal Environmental Protection Agency.
- k. Piping connected to any of the above exemptions.
- l. Pipeline terminals, refinery terminals, rail and barge terminals and tanks associated with each.

(12) Third Party Claim. Any civil action brought or asserted by any person against any owner or operator of any underground or aboveground storage tank who is in substantial compliance as stated in this chapter for bodily injury or property damage which damages are the direct result of an accidental release arising from the operation of motor fuel underground or aboveground storage tanks covered under this chapter.

(13) Response Action. Any activity, including evaluation, planning, design, engineering, construction, and ancillary services, which is carried out in response to any discharge, release, or threatened release of motor fuels.

(14) **Response Action Contractors.** A person who has been approved by the department who is carrying out any response action, including a person retained or hired by such person to provide services relating to a response action.

(15) **Substantial Compliance.** An owner or operator of an underground or aboveground storage tank has registered that tank with the department, has timely paid the annual fee, if any, has made a good faith effort to comply with the state and federal laws applicable to underground or aboveground storage tanks, and the rules and regulations adopted pursuant thereto, and shall have met the financial responsibility requirements imposed by section 22-35-7, and shall have promptly notified the director of any third party claim or suit made against him.

(16) **"Bulk facility"** means a facility, including pipeline terminals, refinery terminals, motor fuel distribution terminals, rail and barge terminals, and associated tanks, connected or separate, from which motor fuels are withdrawn from bulk and delivered into a cargo tank or a barge used to transport these materials.

(17) **"Cargo tank"** means an assembly that is used for transporting, hauling, or delivering liquids and that consists of a tank having one or more compartments mounted on a wagon, truck, trailer, railcar or wheels.

(18) **"Withdrawal from bulk"** means the removal of a motor fuel from a bulk facility storage tank directly into a cargo tank to be transported to a location in this state.

Section 4. Section 22-35-4 Code of Alabama 1975 is hereby amended as follows:

§22-35-4. Alabama underground and aboveground storage tank trust fund created; credits to and charges against fund; investigation, etc., of water contamination related to storage of motor fuels; liability of owner for costs; indemnification limit as to third party claims.

There is hereby created the Alabama underground and aboveground storage tank trust fund, hereinafter referred to as the "fund" to be administered by the secretary-treasurer of the retirement systems of Alabama. This fund shall be used by the department as a revolving fund for carrying out the purposes of this chapter. To this fund shall be credited all tank fee and underground and aboveground storage tank trust fund charge revenues levied, collected and credited pursuant to this chapter. Charges against the fund shall be made in accordance with the provisions of this chapter.

(1) Whenever in the director's determination incidents of soil or water contamination related to the storage of motor fuels in

underground storage tanks discovered and reported to the department on or after October 1, 1988, and in aboveground storage tanks discovered and reported to the Department on or after August 1, 1993, may pose a threat to the environment or the public health, safety or welfare, and the owner or operator of the underground or aboveground storage tank has been found to be in substantial compliance, the department shall obligate moneys available in the fund to provide for:

- a. Investigation and assessment of contamination sites;
- b. The interim replacement and permanent restoration of potable water supplies;
- c. Rehabilitation of contamination sites, which may consist of clean-up of affected soil and groundwater, using cost effective alternatives that are technologically feasible and reliable, and that provide adequate protection of the public health, safety and welfare and minimize environmental damage, in accordance with the site selection and clean-up criteria established by the department, except that nothing herein shall be construed to authorize the department to obligate funds for payment of costs which may be associated with, but are not integral to, site rehabilitation, such as the cost for retrofitting or replacing underground and aboveground storage tanks. The moneys expended from the fund for any of the above approved costs shall be spent only up to such sum as will cause the Resource Conservation and Recovery Act, subtitle I, the Superfund Amendments and Reauthorization Act of 1986, and any other federal laws governing disbursement of federal funds for clean up and/or third party claims to come into effect. Monies expended from the Fund as a result of a release from aboveground tanks shall not exceed one million dollars (\$1,000,000.00) less the applicable deductible.

(2) Whenever costs have been incurred by the department for taking response action or enforcement action with respect to the release of motor fuels from an underground or aboveground storage tank, or the department has expended funds from the fund created by this chapter, the owner of the underground storage tank shall be liable to the department for such costs if such release was discovered or reported prior to October 1, 1988, and the owner of the aboveground storage tank shall be liable to the Department for such costs if such release was discovered or reported prior to August 1, 1993, or if such owner or operator was not in substantial compliance on the date of discovery of the release of motor fuels which necessitates the cleanup; or such owner or operator fails to maintain substantial compliance thereafter; otherwise liability is limited to the provisions contained in section 22-35-7.

(3) The indemnification limit of the fund with respect to satisfaction of third party claims shall be the following amounts:

a. For owners or operators of motor fuels underground storage tanks that are located at petroleum marketing facilities, or that handle an average of more than 10,000 gallons of motor fuels per month based on annual throughput for the previous calendar year; \$1 million per occurrence.

b. For all other owners or operators of motor fuels underground and aboveground storage tanks; \$500,000 per occurrence;

c. For owners or operators of 1 to 100 motor fuels underground and aboveground storage tanks, \$1 million annual aggregate; and

d. For owners or operators of 101 or more motor fuels underground and aboveground storage tanks, \$2 million annual aggregate.

Section 5. Section 22-35-5 Code of Alabama 1975 is hereby amended as follows:

§22-35-5. Owners to pay underground storage and aboveground tank trust fund fee; special assessments when fund depleted; failure to pay fee; levy and amount of underground and aboveground storage tank trust fund charge; fees deposited in fund; investment of fund; use of fund; procedure for obtaining payments from fund; limits on liability for clean-up costs; audit of fund.

(a) Every owner of an underground or aboveground storage tank as defined in this chapter shall pay an underground and aboveground storage tank trust fund fee as established by the provisions of this chapter to be paid to the department. During the first year next following October, 1988, the amount of the annual underground storage tank trust fund fee shall be \$100.00. Thereafter, the commission, upon recommendation of the advisory board, shall set such an amount not to exceed \$150.00 per year per regulated tank. Should the fund become depleted due to claims being greater than amounts provided by tank fees, the commission shall be empowered to make special assessments of tank fees to protect the financial integrity of the fund. Provided the total tank fees and special assessments for any fiscal year do not exceed \$150.00 per regulated tank. The failure to pay underground and aboveground storage tank trust fund fees within the time prescribed by the department shall make the owner or operator of such underground or aboveground storage tank liable for a late charge penalty in an amount not to exceed \$100.00 per tank for each day such payment is delinquent, subject to the discretion of the director. The director, for good cause shown, may abate all or part of said penalty.

b(1) An underground and aboveground storage tank trust fund charge is imposed on the first withdrawal from bulk. Each operator of a bulk facility from which a first withdrawal from bulk

is made shall, on the first withdrawal from bulk, either retain or collect from the person who ordered the fuel a fee in an amount determined as follows:

A. Thirteen dollars and fifty cents (\$13.50) for each separate withdrawal from bulk, into a cargo tank, less than or equal to 4500 gallons.

Twenty-seven dollars and no cents (\$27.00) for each separate withdrawal from bulk, into a cargo tank, of greater than 4500 gallons.

B. When a withdrawal from bulk occurs outside of this state, where the motor fuel is to be imported into this state, the importer of such motor fuel shall be responsible for the collection and remittance of the applicable underground and aboveground storage tank trust fund charge.

(2) Each operator of a bulk facility from which a first withdrawal from bulk is made and importers of motor fuels into the State of Alabama as identified in Section b(1)B above, shall file an application with the Department of Revenue for a permit to deliver motor fuel into a cargo tank destined for delivery into storage tanks, regardless of whether these tanks are exempted from the definition of underground or aboveground storage tank hereinabove. All applications shall be filed utilizing a form furnished by the Department of Revenue. A permit issued under this Subsection is valid on and after the date of its issuance and until the permit is surrendered by the holder or canceled by the Department of Revenue.

(3) All invoices or transaction statements issued by operators of bulk facilities for the transfer of motor fuels into a cargo tank shall clearly indicate whether or not the transaction was a withdrawal from bulk as defined herein.

(4) Each operator of a bulk facility from which a first withdrawal from bulk is made shall list, as a separate line item on an invoice, the amount of the fees due under this Section, and on or before the twentieth day of the month following the end of each calendar month, file a report with the Department of Revenue and remit the amount of fees required to be collected or paid during the preceding month. Said reports shall be filed on a form furnished by the Department of Revenue. The Department of Revenue shall deposit in the trust fund immediately all underground and aboveground storage tank trust fund charge revenues collected by it.

(5) All invoices, reports, and any other records required under this Section as well as rules adopted by the department and the Department of Revenue pursuant to this Section, or copies thereof, shall be retained for a period of four years after the date on which

the document is prepared. The Department of Revenue shall have authority to audit the records of all persons required to collect and remit the underground and aboveground storage tank trust fund charge established herein in order to ensure proper enforcement thereof.

(c) The proceeds from the tank fees and underground and aboveground storage tank trust fund charge imposed by this chapter shall be deposited into the Alabama underground and aboveground storage tank trust fund established in section 22-35-4 until the unobligated balance in the fund shall reach 10 million dollars (\$10,000,000.00), at which time the tank fee, if any, and the underground and aboveground storage tank trust fund charge shall abate until such time as the unobligated fund balance shall be reduced to seven and one-half million dollars (\$7,500,000.00), at which point the tank fee and the underground and aboveground storage tank trust fund charge shall be imposed until such time as the unobligated balance in the fund shall reach 10 million dollars (\$10,000,000.00). The unobligated balance of the fund shall be invested by the retirement systems of Alabama in its sole discretion, for the benefit of the fund.

(d) This fund shall be used for the purposes set forth in this chapter only for releases discovered and reported to the department on or after October 1, 1988, with regard to underground storage tanks, and only for releases discovered and reported to the Department on or after August 1, 1993 with regard to aboveground storage tanks, and for no other governmental purposes, nor shall any portion hereof ever be available to borrow from by any branch of government; it being the intent of the legislature that this fund and its increments shall remain intact and inviolate for the purposes set out in this chapter. Any interest or earnings on the fund shall be credited only to the fund.

(e) Moneys held in the fund established under the chapter shall be disbursed for the following purposes:

(1) Payments shall be made to third parties who bring suit against the director in his official capacity as representative of the fund and the owner or operator of an underground or aboveground motor fuel storage tank who is in substantial compliance as stated in this chapter and such third party obtains a final judgment in that action enforceable in this state. The owner or operator above stated shall pay the first \$5,000.00 of said judgment and after that payment has been made, the fund will pay the remainder of said judgment. With respect to the owner or operator of an aboveground motor fuel storage tank who is in substantial compliance, said owner or operator shall pay the first \$10,000 of said judgment and after that payment has been made, the Fund will pay the remainder

of said judgment. The attorney general of the state of Alabama is hereby responsible to appear in said suit for and in behalf of the director as representative of the fund and the director as representative of the fund is a necessary party in any suit that is brought by any third party which would allow that third party to collect from this fund; and the director must be made a party to the initial proceedings. The costs of defending these suits by the attorney general or those assistants employed by the department, or appointed by the attorney general to assist shall be recovered from the fund. The costs of defending an owner or operator who is in substantial compliance as stated in this chapter against third-party claims shall be recovered from the fund pursuant to such guidelines and procedures and subject to such limits as the Alabama Underground and Aboveground Storage Tank Trust Fund Advisory Board shall provide. The amount of money in this fund, the method of collecting the fund, nor any of the particulars involved in setting up this fund shall be admissible in evidence in any trial where suit is brought when the judgment rendered could affect the fund.

(2) Payments as approved by the department shall be made in reasonable amounts to approved response action contractors when vouchers are submitted to the secretary-treasurer of the retirement system of Alabama from the director requesting payment.

(f) Payments from the fund may be obtained by following this procedure:

Under subdivision (e)(1) of this section by filing an application with the department attaching the original or a certified copy of the final judgment, together with proof of payment of the first \$5,000.00, or in connection with judgments against owners or operators of aboveground tanks, with proof of payment of the first \$10,000.

(f) Nothing in this chapter shall establish or create any liability or responsibility on the part of the department or the state of Alabama to pay any clean-up costs or third party claims from any source than the fund created by this chapter, nor shall the department or the state of Alabama have any liability or responsibility to make any payments for clean-up costs or third party claims if the fund created herein is insufficient to do so. In the event the fund is insufficient to make the payments at the time the claim is filed, such claims shall be paid in the order of filing at such time as monies are paid into the fund.

(g) The fund shall be audited annually by the department of examiners of public accounts.

Section 6. Section 22-35-6 Code of Alabama 1975 is hereby amended as follows:

§22-35-6. Alabama underground and aboveground storage tank trust fund advisory board created; members; meetings; duties.

There is hereby created an Alabama underground and aboveground storage tank trust fund advisory board (the "board") comprised of a representative from each of the following organizations: (1) the Alabama Oilmen's Association; (2) the Alabama Service Station Association; (3) the Petroleum Equipment Institute; (4) the Alabama Department of Environmental Management; and (5) the Alabama Petroleum Council. Each representative, or the designee of such representative, may attend meetings of the board, and each such representative, or designee, shall have one vote concerning any matter coming before the board. The board shall elect its own chairman. The board shall meet at least twice annually, and may meet at any other time upon 5 days' notice from the director or any two of the board's other members. The board will advise the commission and/or the department on (1) issues involving implementation of the act; (2) reductions of the fund ceiling; (3) the role of the fund in establishing financial responsibility as required by federal law; (4) examination of claims made and loss experience, including recommendations to the commission for minimum levels of financial responsibility for underground and aboveground storage tank owners or operators under section 22-35-7; (5) adjustments of the tank fee; (6) the necessity for, and contents of, rules and regulations issued under the act, and similar matters; (7) the board shall recommend standards for the qualification of response action contractors as defined herein, and (8) such other advice as the commission may request or the board may desire to offer.

The board shall provide guidelines and procedures and shall set limits for the recovery from the fund of costs of defending an owner or operator who is in substantial compliance as stated in this chapter against third-party claims.

Section 7.

§22-35-7. Financial responsibility requirements for taking response action.

(a) The financial responsibility requirements for taking response action by underground motor fuel storage tank owners or operators shall be set at \$5,000.00 per occurrence, and for aboveground tank owners or operators the financial responsibility requirements shall be set at \$10,000 per occurrence. The commission may increase the clean-up and third party damage liability per occurrence to owners or operators when recommended by the advisory board.

(b) Financial responsibility may be established by any one or combination of the following: insurance, guarantee, surety bond,

letter of credit or qualification as a self-insurer. A person may qualify as a self-insurer by showing tangible net worth in the amount of \$25,000.00.

Section 8.

§22-35-8. Rehabilitation of contamination sites.

(a) The legislature finds that in order to provide for the expeditious rehabilitation of contamination sites, voluntary rehabilitation of contamination sites should be encouraged, provided that such rehabilitation is conducted in a manner and to a level of completion which will protect the public health, safety, and welfare and will minimize damage to the environment. To accomplish this purpose, the commission shall promulgate rules and regulations for the approval and compensation of response action contractors or through the use of their own personnel. The state shall not be party to contracts established between an owner or operator and a response action contractor and nothing in this chapter shall be construed as a state contract but to the contrary, it is expressly manifest that these are not state contracts and are expressly exempt from any competitive bid laws.

(b) Nothing in this chapter shall be deemed to prohibit a person from conducting site rehabilitation through approved response action contractors.

Section 9.

§22-35-9. Administration cost of chapter; annual budgets for administration.

(a) Administration cost of all the provisions of this chapter shall be charged to the fund. Annual budgets for administration are to be included as part of the regular department budget. Budget provisions for this activity shall be the department's actual cost, not to exceed 8% of total fees and charges collected annually or a maximum of \$705,000.00 per year whichever is less, excluding any legal expenses incurred by the department in discharging its duties under the provisions of this chapter. In no event shall the department's budget provisions for this activity in any given year be less than \$400,000.00.

(b) As a first charge against revenues collected under the provisions of this act, to offset its initial costs in administering such collections, there is hereby appropriated to the Department of Revenue for the fiscal year ending September 30, 1994 the sum of \$150,000. The Department of Revenue shall be appropriated for each fiscal year by the legislature the amount of money necessary to pay its actual costs in administering and enforcing this act, not to exceed \$150,000 per annum, which money shall be deducted, as

a first charge thereon, from the revenues collected under the provisions of this act. After payment of the aforesaid expenses, the balance of the revenues collected under the provisions of this act shall be deposited as directed elsewhere in this act. Should the trust fund charge abate as provided in Section 5(c) hereinabove, the collection allowance to the Department of Revenue shall abate as well, and such allowance shall reinstate when the trust fund charge is reimposed as provided in Section 5(c).

Section 10.

(a) §22-35-10. Rules and regulations.

Rules and regulations pertaining to this chapter shall be adopted by the commission in accordance with applicable state and federal laws. The commission shall not adopt any rules or regulations pertaining to underground or aboveground storage tanks under the provisions of this chapter that are more stringent than those provided by federal rules or regulations.

(b) The department may require the owner or operator of an aboveground storage tank to provide to the department information concerning the aboveground storage tank which may include, but is not limited to the name of the owner, the name of the operator, the location, and description of the facility at which the aboveground storage tank is located, regulated substances and quantities of regulated substances used or stored.

Section 11.

§22-35-11. Notice to underground and aboveground storage tank owners of provisions of chapter.

No later than 90 days after October 1, 1988, with regard to underground storage tank owners and no later than 90 days after August 1, 1993, with regard to aboveground storage tank owners, the department shall notify said tank owners of the privileges of this chapter, the required timely payment of fees, the deadlines for payment thereof, and the manner in which late charges may be applied. This notification shall be accomplished by publication in newspapers published at least once per week in each county of the State. In the event a county does not have a newspaper which is published at least once a week, the publication in a newspaper published at least once a week in an adjoining county shall be sufficient. Registration of aboveground storage tanks as provided herein shall occur no later than January 31, 1994.

Section 12.

§22-35-12. Liability of underground and aboveground storage tank owners.

This chapter is to assist the underground and aboveground storage tank owner to the extent provided for in this chapter, but not to relieve the owner of any liability that cannot be satisfied by the provisions of this chapter.

Section 13.

§22-35-13. No disbursements from fund until adoption of rules and regulations governing disbursements.

Disbursements from the fund for the purpose of paying clean-up costs or satisfying third party liability claims shall not be made until rules and regulations establishing administrative guidelines and procedures which shall govern the manner in which disbursements are made are effective. Rules and regulations establishing these administrative procedures shall be effective no later than June 1, 1989. Rules and regulations establishing these administrative procedures for aboveground storage tanks shall be effective no later than April 1, 1994.

Section 14.

The provisions of this Act are severable. If any part of the Act is declared invalid or unconstitutional, the remainder of this Act shall be null and void except for the provisions regarding third party liability set forth in Section 4(3) hereinabove.

Section 15.

This act shall become effective August 1, 1993.

Approved May 13, 1993

Time: 4:18 P.M.

Act No. 93-629

H. 43 – Rep. Flowers

AN ACT

Reopening for a certain time the Teachers' Retirement System for purchase of a certain amount of service credit by active members for certain periods of time during which they were on leave without pay.

Be It Enacted by the Legislature of Alabama:

Section 1. Any provisions of Chapter 25 of Title 16, Code of Alabama 1975, to the contrary notwithstanding, active and contributing members of the Teachers' Retirement System may purchase service credit in the system not to exceed one year for any period of time that they were required to be on leave from service

without pay to comply with any state adoption law or regulation requiring a prospective adopting parent to stay home from work until the adoption process was finalized. The Board of Control of the Teachers' Retirement System shall adopt rules and regulations for the administration of this section including verification of the service that the member desires to purchase credit for in the system. The member shall receive credit for the service when he or she remits to the system the contributions required by Section 2 of this act. Notwithstanding the foregoing language, no member of the Teachers' Retirement System shall be eligible to receive credit for any service that the member is already credited with in the system or in any other public retirement plan, with the exception of the federal social security program.

Section 2. Any member who is eligible to purchase service credit in the Teachers' Retirement System under Section 1 of this act shall pay to the Secretary-Treasurer of the system, within one year from the effective date of this act, for the claimed service, a sum equal to a percentage of his or her or current annual earnable compensation or the average of his or her annual compensation for the two scholastic years immediately prior to the purchase, whichever is greater. The applicable percentage shall be the sum of the prevailing percentage rates of employer and member contributions, as required by the most recent actuarial valuations, for each year of service credit purchased.

Section 3. This act shall become effective on October 1, 1993, upon its passage and approval by the Governor or its otherwise becoming a law.

Approved May 13, 1993

Time: 4:19 P.M.

Act No. 93-630

H. 459 – Rep. Newton (C)

AN ACT

To provide further for length restrictions on vehicles, trucks, trailers, semi-trailers, or combination thereof, transporting laminated wood building materials, and amending Section 32-9-25 for that purpose.

Be It Enacted by the Legislature of Alabama:

Section 1. Section 32-9-25, Code of Alabama 1975, is amended to read as follows:

“§32-9-25.

"There shall be exempt from this article as to length, detachable wind deflection devices which have been approved by the state highway department, loads of poles, logs, lumber, laminated wood building materials, structural steel, piping and timber, and vehicles transporting same. Trucks, trailers and semi-trailers which are constructed and used exclusively for the hauling of livestock, shall also be exempt from the restrictions of this article as to length, but shall not exceed 65 feet in length."

Section 2. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved May 13, 1993

Time: 4:20 P.M.

Act No. 93-631

H. 669 – Rep. Harper

AN ACT

To further provide for funding of the Lands Division of the Department of Conservation and Natural Resources; to amend Section 9-15-15, Code of Alabama 1975, relating to the disposition of certain revenues from unused lands, to provide for the deposit of the revenue in the State Land Fund; to amend Section 9-15-16, Code of Alabama 1975, relating to the administrative expenses for the management of unused lands; to amend Section 9-15-39, Code of Alabama 1975, relating to revenue derived from school lands, to provide for the retention of a management fee of 10 percent by the Lands Division; and to amend Section 9-15-40, Code of Alabama 1975, relating to revenue derived from the management of certain swamp and overflow lands, to provide for the retention of a management fee of 10 percent by the Lands Division; to amend Section 9-15-52, Code of Alabama 1975, relating to the management of certain sand and gravel resources, to provide for an administrative fee of 10 percent; to provide for the retention of a management fee of 10 percent by the Lands Division for all other lands managed by the division; to further provide for the deposit of certain funds and fees into the State Lands Fund and to further provide for the use thereof.

Be It Enacted by the Legislature of Alabama:

Section 1. All funds and fees accruing from the management of lands by the Lands Division of the Department of Conservation and Natural Resources which are received or retained pursuant to Sections 9-15-15, 9-15-16, 9-15-39, 9-15-40, and 9-15-52, of the Code of Alabama 1975, and Section 3 of this act, shall be deposited into the State Lands Fund, and shall be used only for the preservation, management, protection, and improvement of the lands.

Section 2. Sections 9-15-15, 9-15-16, 9-15-39, 9-15-40, and 9-15-52 Code of Alabama 1975, are amended to read as follows:

"§9-15-15.

"Any revenues that shall accrue from the lands so managed by the department of conservation and natural resources subject to costs of administration shall be the property of the department or institution to which the lands belong or in which the department or institution shall own the beneficial interest. If the land shall be owned absolutely by the state of Alabama, and shall consist of submerged land, the revenue from the use of the land, with the exception of offshore oil and gas capital payments and sand and gravel royalties, shall become a part of the State Lands Fund of the Lands Division of the Department of Conservation and Natural Resources of the state of Alabama. In all other cases, however, the reasonable cost of administering, managing, protecting, mapping, surveying, cruising, or developing any unused lands shall be a charge against the income produced therefrom, and the charge shall be deducted from the income by the commissioner of conservation and natural resources and retained by the department of conservation and natural resources. The balance remaining shall be paid to the institution, department, or agency of the state of Alabama entitled thereto. If the lands are not submerged lands and are owned absolutely by the state, the revenue derived therefrom, less the cost of management, protection, and development of the lands, shall be paid by the commissioner of conservation and natural resources to the state treasurer to become a part of the State General Fund."

"§9-15-16.

"In no case shall the charges for administering, managing, protecting, or developing the lands exceed 10 percent of the gross income derived from the lands."

"§9-15-39.

"The revenue derived from any sale of timber or minerals from, or rental or lease of, any school lands shall be paid by the commissioner of conservation and natural resources to the treasurer to be deposited to the credit of the proper township or townships as provided for by the constitution and laws of Alabama, except that there shall be retained by the Lands Division of the Department of Conservation and Natural Resources a management fee of 10 percent of any and all revenue. An itemized statement of the revenue derived from the sale or lease shall be immediately forwarded by the commissioner of conservation and natural resources to the state superintendent of education, and the statement shall show the items of sale, the amount of revenue derived therefrom, and a description of the land from which the sale or lease was made. The superintendent of education, upon receipt of the itemized statement, shall immediately cause a report to be transmitted to the treasurer showing which township or townships shall receive credit for the revenue and the amount of credit which shall be made thereto."

“§9-15-40.

“The revenue derived from any sale of timber or minerals from, or rental or lease of, any swamp and overflow land owned by the Department of Mental Health and Mental Retardation shall be paid by the commissioner of conservation and natural resources to the Department of Mental Health and Mental Retardation, except that there shall be retained by the Lands Division of the Department of Conservation and Natural Resources a management fee of 10 percent of all revenue.”

“§9-15-52.

“All contracts, leases, and agreements for the sale of sand and gravel from the lands of the state which are not owned, occupied, or held in trust by or assigned or dedicated to any department, agency, or institution and from the public water bottoms of the state of Alabama shall be negotiated, consummated, and administered by the commissioner of conservation and natural resources, acting through the lands division of the department of conservation and natural resources, which division shall receive as the cost of administration 10 percent of all revenues accruing from the sale of sand and gravel or royalties resulting from sand and gravel leases.”

Section 3. For all other lands managed by the Lands Division of the Department of Conservation and Natural Resources, there shall be retained by the Lands Division a management fee of 10 percent of all gross receipts.

Section 4. The provisions of this act are severable. If any part of this act is declared invalid or unconstitutional, that declaration shall not affect the part which remains.

Section 5. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved May 13, 1993

Time: 4:21 P.M.

Act No. 93-632

H. 195 – Rep. Newton (C)

AN ACT

Relating to the further regulation of liquefied petroleum gas and the powers, duties, and authority of the Liquefied Petroleum Gas Board; to amend Sections 9-17-100, 9-17-104, 9-17-109, and 9-17-110, Code of Alabama 1975, as amended, so as to provide for notification of work on liquefied petroleum gas systems; to provide for a research and education committee; to provide for a special Liquefied Petroleum

Gas Research and Education Fund in the State Treasury for research and education purposes; and to provide an appropriation.

Be It Enacted by the Legislature of Alabama:

Section 1. Section 9-17-100, Code of Alabama 1975, is amended to read as follows:

“§9-17-100.

“As used in this article, the following words and phrases shall have the following meanings, respectively, unless the context clearly indicates otherwise:

“(1) **AUTHORITY HAVING JURISDICTION.** Alabama Liquefied Petroleum Gas Board.

“(2) **BOARD.** The Alabama Liquefied Petroleum Gas Board.

“(3) **BRANCH.** A local unit of an LP-gas business that is one or more of the following: a division or subdivision or a person doing business under a name other than the Class A permit holder’s name; a place where the day-to-day retail operations of an LP-gas business are conducted and at which at least three of the following activities occur or conditions exist: sales of appliances; orders are taken for LP-gas repair and service; orders are taken to refill LP-gas systems either by phone or in person; employees are present during a normal workday; or a place that requires a city or county license to conduct business.

“(4) **LP.** Liquefied petroleum gas.

“(5) **LPG.** Liquefied petroleum gas.

“(6) **LP-GAS.** Liquefied petroleum gas.

“(7) **LIQUEFIED PETROLEUM GAS.** Any material having vapor pressure not exceeding that allowed for commercial propane composed predominantly of the following hydrocarbons, either by themselves or as mixtures: propane, propylene, butanes (normal butane or isobutane), and butylenes.

“(8) **LIQUEFIED PETROLEUM GAS RESEARCH AND EDUCATION FUND.** A fund created to finance activities relating to research, development, and the implementation of marketing, advertising, and informational programs relating to LP-gas directed toward the consumer as well as for the education of industrial members and employees.

“(9) **LIQUEFIED PETROLEUM GAS SYSTEM.** Any assembly consisting of one or more containers with a means for conveying LP-gas from the containers to dispensing or consuming devices (either continuously or intermittently) and which incorporates

components intended to achieve control of quality, flow, pressure, or state (either liquid or vapor).

“(10) PERSON. Every natural person, firm, copartnership, association, or corporation.

“(11) RED TAG. A red card or device containing an official printed notice of the condemnation of a liquefied petroleum gas system or any connected or disconnected LP-gas component, LP-gas storage container, LP-gas container appurtenance, or LP-gas motor vehicle, transport, or delivery unit placed as a result of a violation of the liquefied petroleum gas safety code provisions and regulations, or as a result of a mechanical defect found on the LP-gas motor vehicle, transport, or delivery unit that could cause a danger to the public if allowed to continue to operate. When attached to such system or to any connected or disconnected LP-gas component, LP-gas storage container, LP-gas appurtenances, motor vehicle, transport or delivery unit a red tag is official notice of condemnation and of the prohibition of further use, so long as the red tag remains affixed by law.”

Section 2. Section 9-17-104, Code of Alabama 1975, as last amended by Act No. 92-123, is further amended to read as follows:

“§9-17-104.

“(a) The board shall appoint, prescribe the duties of, and fix the compensation of an administrator. Before entering upon the duties of office, the administrator shall make and file with the Secretary of State an official bond in an amount to be fixed by the board. Premiums of the bond shall be paid out of funds of the board. The bond shall be payable to the State of Alabama and shall be written by an approved insurance company qualified to do business in the State of Alabama. The board may dismiss an administrator at its discretion. The board shall adopt a seal, which shall be in the care and custody of the administrator. The board may, subject to the merit system, employ and prescribe the duties of assistants and inspectors necessary to carry out this article. The board may, without regard to the Merit System Act, engage and employ consultants and technical advisors considered necessary in carrying out its responsibilities.

“(b) The administrator and inspectors are constituted peace officers of the state of Alabama and are clothed with the powers of peace officers and deputy sheriffs, and may exercise such powers anywhere within the state. They may issue a warning ticket or a uniform traffic citation to or arrest violators of Sections 40-17-160 to 40-17-166, inclusive, and any state or federal law or regulation adopted by the board relating to the transportation of liquefied

petroleum gas and carry such violators before the district court in the county in which the violation is committed.

“(c) All fees and penalties collected under this article or otherwise inuring to the credit of the board shall be deposited in the State Treasury in a fund designated the ‘Liquefied Petroleum Gas Board Fund,’ which is established by this subsection. All expenditures from the fund shall be subject to the terms, conditions, provisions, and limitations of Title 41, Chapter 4, Article 4.

“(d) All balances in the fund in excess of two hundred thousand dollars (\$200,000) at the end of each fiscal year shall be transferred to the Liquefied Petroleum Gas Research and Education Fund established in the State Treasury. The monies in the Liquefied Petroleum Gas Research and Education Fund shall be paid out only by warrant of the comptroller upon the treasurer, upon itemized vouchers, approved by the administrator; provided, that no funds shall be withdrawn or expended except as budgeted and allotted according to the provisions of Sections 41-4-80 through 41-4-96 and Sections 41-19-1 through 41-19-12 of the Code of Alabama 1975, as amended and only in amounts as stipulated in the general appropriation or other appropriation bills each new fiscal year for research, development, and training and the implementation of marketing, advertising, and information programs relating to LP-gas. Any other appropriations, grants, or other sources of funding made available for the purpose of LP Gas research and education shall be deposited in the LP Gas Research and Education Fund.”

Section 3. Sections 9-17-109 and 9-17-110, Code of Alabama 1975, are amended to read as follows:

“§9-17-109.

“(a) Any person violating this article or any rule, order, or regulation promulgated pursuant to this article shall, on conviction thereof, be fined not more than one thousand dollars (\$1,000) and may also be imprisoned in the county jail or sentenced to hard labor for the county for not more than six months. Every violation of this article or any rule, order, or regulation promulgated pursuant to this article shall constitute a separate offense.

“(b) Every person subject to the fees imposed by section 9-17-106 shall keep and preserve suitable records of all liquefied petroleum gas transactions subject to fees and any other books or accounts necessary to determine the amount of fees for which the person is liable under this article. Those records shall be retained for a period of not less than three years, and shall include the name, address of buyer, date of sale, amount of gallons purchased, cost per gallon, total amount of sale, and the amount of fees collected under section

9-17-106. The board, the board administrator, or employees of the board may inspect, review, and copy or detain any original records, notes, or documents either written or electronically transcribed that are required to be kept by this article or that relate to the selling, storing, transporting, installing, servicing, testing, inspecting, repairing, adjusting, and calibrating of LP-gas meters, containers, tanks or systems. Those records, notes, or documents shall be turned over to the board at a location designated by the board within 24 hours of the notice or within a reasonable time in excess of 24 hours set by the board or board administrator in cases of hardship.

“(1) If any person fails to report and remit fees required in section 9-17-106, the board shall issue a written order by registered or certified mail to the person to report and remit those fees. If the person fails or refuses to make the report and remittance within 30 days following the order, the board shall make the report based upon any information it reasonably obtains, shall assess the fees due thereon, and shall add a penalty of 25 percent of the fees due, as assessed by the board, and interest at the rate of one and one-half percent per month, or fraction thereof, from the date the fees were originally due. If a good and sufficient reason is shown for the delinquency, the board may waive or remit the 25 percent penalty or a portion thereof.

“(2) Any person who reports but fails to pay the fees levied in section 9-17-106 within the time required by this article shall pay, in addition to the fees, a penalty of 10 percent of the amount of the fees due, together with interest thereon at the rate of one and one-half percent per month or fraction thereof from the date at which the fees levied in this section became due and payable. The penalty and interest shall be assessed and collected as part of the fee. The board, for good cause shown, may waive or remit the 10 percent penalty or any portion thereof.

“(3) As soon as practicable after the report is filed, the board shall examine and ascertain the proper amount of the fee as shown by the report. Any excess shall be refunded to the person who filed the report or credited on any deficiency previously due. If the amount paid is deficient, as shown by the report, the board shall immediately notify the persons of the deficiency and shall add a penalty of 10 percent of the amount due. If the deficiency is not paid within 30 days from the date of notice, interest shall accrue on the deficiency at the rate of one and one-half percent per month or fraction thereof, from the date the fee was due and shall be collected as part of the fee. The board, for good cause shown, may waive or remit the penalty or any portion thereof.

“(4) When the board ascertains from examining and auditing the records of a person who collects the fee or from other

information that the amount or amounts previously paid by the person for any period or periods is incorrect, the board shall compute the correct amount of fees due. If it appears that the amount paid is excessive, the excess shall be refunded or credited on any deficiency previously due by the person as required by this article. If it appears that the amount paid is deficient, the board shall notify the person, and shall demand payment. If payment is not paid within 15 days from date of demand, the board shall add a penalty of one and one-half percent per month from the date the fees, or any part thereof, becomes due. If the board finds a willful or fraudulent intent to evade the fees due, it may assess a penalty of 25 percent of the fees. The penalty shall be reviewable on appeal.

“(c) When the board makes an assessment as provided in section 9-17-106, the board shall notify the person by registered or certified mail of the amount of the assessment and shall notify the person to appear at a hearing of the board at the board office on a day named not less than 20 days from date of the notice to show cause why the assessment should not be final. The appearance may be by an agent or attorney. If no response is made on or before the date of the hearing, or if the response is not sufficient in the judgment of the board, the assessment shall be made final in the amount originally fixed or in any amount determined by the board to be correct. The board shall notify the person of the final assessment. A notice by the United States mail, addressed to the last known place of business, shall be sufficient.

“Any person who has duly appeared and protested an assessment may appeal the final assessment of the board. A hearing on the appeal shall be held at a time and place designated by the board. No appeal shall lie in cases if the person has failed to appear and protest. Any assessment made by the board shall be deemed correct, *prima facie*, on appeal.

“(d) Liquefied petroleum gas containers may be filled only by the owner or upon the owner's authorization. The owner of a liquefied petroleum gas container is responsible for its suitability for continual service. Any person who fills or refills any LP-gas container or who, without authorization, turns any liquefied petroleum gas system on after it has been inspected, shut down, and condemned for safety violations, or operates an LP-gas motor vehicle, transport, or delivery unit that has been condemned for safety purposes or mechanical defects and red-tagged under authority of the liquefied petroleum gas board, or removes any red tag without authorization from the board administrator, or any person who authorizes an unqualified person to install or replace gas piping or install, connect, repair, or service any LP-gas equipment is guilty of a Class B misdemeanor as defined in Title 13A, and, upon conviction, shall be punished as provided by law.

“(e) To ensure safety to the consumer, any person who authorizes any person other than his or her servicing LP-gas supplier to perform maintenance, or repair, install, adjust, or service any liquefied petroleum gas appliance, including but not limited to, ranges, heat producing devices, hot water heaters, containers, tanks, or any LP-gas system, shall notify the LP-gas dealer who regularly supplies the system with LP-gas that one or more of the aforementioned actions have been performed on his or her LP-gas system within five work days after the maintenance, installation, or work has been performed, or before the LP-gas system is next filled with LP-gas, whichever occurs first.”

“§9-17-110.

“(a) The Liquefied Petroleum Gas Research and Education Advisory Committee is created. The committee shall consist of five members as follows: Two members shall be industrial members of the LP-Gas Board appointed by the board chair; two members shall be either a dealer or a dealer's manager who is a member of the Alabama Propane Gas Association appointed by the association's Board of Directors; the fifth member shall be the chair of the LP-Gas Board who shall serve as chair of the committee. The board administrator shall serve as the executive director of the committee.

“(b) The term of office of the appointed committee members shall be one year. Members may serve successive terms. Appointed members of the committee shall take office on the date of the July board meeting each year.

“(c) No member of the committee shall receive per diem or expense allowance.

“(d) The committee may adopt all necessary rules relating to research and education of the public as well as industrial members and employees regarding the use of LP-gas.

“(e) No single corporation or partnership comprised of separate entities within the state, whether or not separately licensed, may be represented on the committee by more than one representative at any one time.

“(f) The Liquefied Petroleum Gas Research and Education Fund may be used by the committee and administered by the LP-Gas Board administrator to pay for activities relating to LP-gas, including the following direct and indirect costs:

“(1) Research of all possible uses of LP-gas to enhance air quality.

“(2) Research, development, and implementation of marketing, advertising, and informational programs relating to LP-gas to make LP-gas more understandable and readily available to consumers.

“(3) Development of conservation and distribution plans to minimize the frequency and severity of disruptions in the supply of LP-gas.

“(4) Development of a public information plan to provide advisory services relating to LP-gas to consumers.

“(5) Development of voluntary participation plans to promote the use of LP-gas by federal, state, and local agencies.

“(6) Development and administration of educational programs relating to LP-gas safety, research, and other related programs directed towards the consumer, industrial members, and employees.

“(7) Other functions the committee determines are necessary to add to a program established by the committee for the purpose of promoting the use of LP-gas.

“(8) The administrative costs incurred by the committee under this section.”

Section 4. In addition to any and all other funds heretofore or hereafter appropriated, there is hereby made a supplemental appropriation of twenty thousand dollars (\$20,000) for the fiscal year ending September 30, 1994, from the Liquefied Petroleum Gas Research and Education Fund to the Liquefied Petroleum Gas board for the purposes enumerated in this act.

Section 5. The provisions of this act are severable. If any part of this act is declared invalid or unconstitutional, that declaration shall not affect the part which remains.

Section 6. All laws or parts of laws which conflict with this act are repealed.

Section 7. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved May 13, 1993

Time: 4:22 P.M.

Act No. 93-633

H. 552 – Rep. Lindsey

AN ACT

Relating to the eradication of boll weevils generally; providing for the composition of the Board of Directors of the Cotton Growers' Association and the maximum assessment levy placed on cotton growers for the eradication of boll weevils and for this purpose amending Sections 2-19-130 and 2-19-132 of the Code of Alabama 1975.

Be It Enacted by the Legislature of Alabama:

Section 1. Sections 2-19-130 and 2-19-132 of the Code of Alabama 1975, are amended to read as follows:

“§2-19-130.

“(a) The board may certify a cotton growers’ organization for the purpose of entering into agreements with the State of Alabama, other states, the federal government and other parties as may be necessary to carry out the purposes of this article.

“(b) In order to be eligible for certification by the board, the cotton growers’ organization must demonstrate to the satisfaction of the board that:

“(1) It is a nonprofit organization and could qualify as a tax-exempt organization under Section 501(a) of the Internal Revenue Code of 1954 (26 U.S.C. 501(a)).

“(2) Membership in the organization shall be open to all cotton growers in this state.

“(3) The organization shall have only one class of members with each member entitled to only one vote.

“(c) The organization’s board of directors shall be composed as follows:

“(1) Two Alabama cotton growers recommended by the Alabama Cotton Commission, to be appointed by the commissioner with the consent of the board.

“(2) Two Alabama cotton growers recommended by the Alabama Farmers Federation, to be appointed by the commissioner, with the consent of the board.

“(3) Four Alabama cotton growers to be appointed by the commissioner, with the consent of the board.

“(4) One representative of state government from this state to be appointed by the commissioner with the consent of the board.

“(d) All books and records of account and minutes of proceedings of the organization shall be available for inspection or audit by the commissioner at any reasonable time.

“(e) Employees or agents of the growers’ organization who handle funds of the organization shall be adequately bonded in an amount to be determined by the commissioner.”

“§2-19-132.

“(a) At the request of the certified organization, the board shall authorize a referendum among cotton growers upon the question of whether an assessment shall be levied upon cotton growers

in the state to offset, in whole or in part, the cost of boll weevil or other cotton pest suppression or eradication programs authorized by this article or by any other law of this state.

“(b) The assessment levied under this article shall be based upon the number of acres of cotton planted. The amount of the assessment, the period of time for which it shall be levied, and the geographical area to be covered by the assessment shall be determined by the board. In no event shall the amount of the assessment exceed fifty dollars (\$50) per acre for any growing season.

“(c) All affected cotton growers shall be entitled to vote in any such referendum and the board shall determine any questions of eligibility to vote.

“(d) If at least two-thirds of those voting vote in favor of the assessment, then the assessment shall be collected by the department from the affected cotton growers.

“(e) The assessments collected by the department under this article shall be promptly remitted to the certified organization under such terms and conditions as the commissioner shall deem necessary to ensure that such assessments are used in a sound program of eradication or suppression of the boll weevil or other cotton pests.

“(f) The certified organization shall provide to the department an annual audit of its accounts performed by a certified public accountant.

“(g) The assessments collected by the department under this article shall not be ‘state’ funds.”

Section 2. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved May 13, 1993

Time: 4:23 P.M.

Act No. 93-634

H. 625 – Reps. Freeman, Grayson, Butler

AN ACT

To revise the procedural requirements for increasing the number of city council districts in a Class 3 municipality.

Be It Enacted by the Legislature of Alabama:

Section 1. Notwithstanding other provision of law, including but not limited to Section 11-43-63, Code of Alabama 1975, a Class 3 municipality may, by ordinance adopted by a majority of the

membership of the council 90 days prior to the regular general municipal election, increase the number of single-member districts (wards) in the municipality up to and including nine members. The ordinance may only be considered after two weeks public notice has been given, outlining generally the voting districts under consideration. The ordinance shall provide that candidates for election for a place on the council, where the council has been divided into districts, shall have resided within the boundaries of the district (ward) for which he or she seeks election for at least 30 days immediately preceding the date of the election, and shall continue to reside in the district he or she represents so long as he or she remains a member of the council. All terms of office for city council members shall be concurrent with the mayor of the municipality. Only electors residing within a district shall be entitled to vote for candidates seeking election for the district.

Section 2. The provisions of this act are severable. If any part of this act is declared invalid or unconstitutional, that declaration shall not affect the part which remains.

Section 3. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved May 13, 1993

Time: 4:24 P.M.

Act No. 93-635

H. 117 – Rep. Starkey

AN ACT

Providing for distinctive motor vehicle license tags or plates for supporters of "Square and Round Dance"; prescribing the fees for the tags or plates; providing for disposition of the net proceeds from the fees; and providing for a delayed effective date.

Be It Enacted by the Legislature of Alabama:

Section 1. Upon application to the judge of probate or license commissioner, compliance with motor vehicle registration and licensing laws, payment of regular fees required by law for license tags or plates for private passenger or pleasure motor vehicles, and payment of an additional fee of five dollars (\$5), owners of motor vehicles who are residents of Alabama shall be issued license tags and plates bearing the words "Square and Round Dance" across the top portion of the tags and plates, upon which, in lieu of the numbers as prescribed by law, shall be inscribed distinction words or marks designed by the department of revenue.

These tags or plates shall be valid for five years, and may then be replaced with either conventional, personalized, or new "Square and Round Dance" tags or plates. Payment of required license fees and taxes for the years during which a new tag or plate is not issued shall be evidenced as provided for in Section 32-6-63 of the Code of Alabama 1975. The Department of Revenue shall design, or have designed, the "Square and Round Dance" tags or plates. The tags or plates shall be issued, printed, and processed like other distinctive and personalized tags or plates provided for in Chapter 6 of Title 32 of the Code of Alabama 1975.

Section 2. The net proceeds of the additional revenues generated by the five dollar (\$5) fee for the "Square and Round Dance" tags or plates, shall be disbursed according to sections 40-12-269 and 40-12-270 of the Code of Alabama 1975.

Section 3. The distinctive license plates or tags issued pursuant to this act shall not be transferable between motor vehicle owners, and in the event the owner of a vehicle bearing the distinctive plates sells, trades, exchanges, or otherwise disposes of the motor vehicle, the tags or plates shall be retained by the owner to whom issued and returned to the judge of probate or license commissioner of the county, who shall receive and account for the tags or plates as provided in this section. In the event the owner acquires by purchase, trade, exchange, or otherwise a vehicle for which no standard tags or plates have been issued during the current license period, the judge of probate or license commissioner of the county shall, upon being furnished by the owner proper certification of the acquisition of the vehicle and the payment of the motor vehicle license tax due upon the vehicle, authorize the transfer of the distinctive license tags or plates previously purchased by the owner to the vehicle, which tags or plates shall authorize the operation of the vehicle for the remainder of the then current license period. In the event the owner of the distinctive license tags or plates acquires by purchase, trade, exchange, or otherwise a vehicle for which standard plates have been issued during the current license year, the judge of probate or license commissioner shall, upon proper certification of the owner and upon delivery to the official of the standard plates previously issued for the vehicle, authorize the owner of the newly-acquired vehicle to place the distinctive license tags or plates previously purchased for the vehicle and use the tags or plates for the remainder of the then current license period. The notice of transfer of ownership shall be recorded by the judge of probate or the license commissioner.

Any person acquiring by purchase, trade, exchange, or otherwise any vehicle formerly bearing the distinctive tags or plates

may, upon certification of the fact to the judge of probate or license commissioner of the county and the payment of the fee now required by law, purchase standard replacement plates for the vehicle which shall authorize the operation of the vehicle by the new owner for the remainder of the license period.

Section 4. The provisions of this act are severable. If any part of this act is declared invalid or unconstitutional, that declaration shall not affect the part which remains.

Section 5. This act shall become effective on the first day of the fourth month next following its passage and approval by the Governor, or its otherwise becoming a law.

Approved May 13, 1993

Time: 4:25 P.M.

Act No. 93-636

H. 282 – Rep. Harper

AN ACT

To establish a Teacher Education Scholarship Loan Program to provide for the education of certified, employed public school teachers to be trained in the use of integrating technology skills in the curriculum; and to repeal Sections 16-6A-11 to 16-6A-13, inclusive, and 16-23-18 to 16-23-23, inclusive, Code of Alabama 1975, relating to the undergraduate scholarship loan program and the Emergency Secondary Education Program.

Be It Enacted by the Legislature of Alabama:

Section 1. Effective October 1, 1993, there is established a teacher education scholarship loan program (hereinafter referred to as “the program”) to provide for the education of certified, employed public school teachers to be trained in the use of integrating technology skills in the curriculum. First priority shall be given to those certified public school teachers in the fields of English, science, mathematics, and social science and history and those who teach pupils in kindergarten to grade six, inclusive. Twenty-five percent of the funds available through this program shall be targeted for minority teachers. When monies are available for scholarship loans for teachers above and beyond the first priority group, the State Board of Education shall designate other critical needs areas for scholarship loans.

Section 2. A scholarship loan received by a teacher under the program may be used to pursue a Master’s Degree in a designated field with a concentration of not less than three three-semester-hour courses, or the equivalent, in the new technologies.

Any teacher qualifying for a scholarship loan may receive a scholarship loan for courses for credit or for non-credit.

Section 3. Any scholarship loan recipient who receives credit for the additional education shall teach in the public schools for at least three years after completing the Master's Degree. Any recipient who has obtained a Master's Degree prior to receiving a loan under this act, shall not be obligated to teach the three years. Any recipient who fails to complete the courses for which the scholarship loan is received shall repay the Alabama Commission on Higher Education the amount of the loan with interest from the date the scholarship loan is received at the prevailing rate charged recipients of non-need-based federal guaranteed student loans. Repayment in full shall be completed within ten years.

Section 4. There is created the Teacher Education Scholarship Loan Trust Fund. The fund shall be a non-reverting fund used by the Alabama Commission on Higher Education to provide scholarship loans under this program. Annual appropriations from the Special Educational Trust Fund shall be made to the fund. Scholarship loan repayments and interest proceeds shall be deposited in the fund.

Section 5. The Alabama Commission on Higher Education shall make reasonable rules and regulations for implementing this act.

Section 6. Any undergraduate student enrolled in a teacher education program and receiving a scholarship under Section 16-6A-11, Code of Alabama 1975, and any student who is a recipient of an Emergency Secondary Education Scholarship under Section 16-23-18, Code of Alabama 1975, on the effective date of this act, shall continue until completion of their program. Any funds available for the Emergency Secondary Education Scholarships shall be transferred to the Teacher Education Scholarship Loan Fund and any funds to be paid the Alabama Commission on Higher Education shall be paid to the Teacher Education Scholarship Loan Fund.

Section 7. All laws or parts of laws which conflict with this act, including but not limited to, Sections 16-6A-11 to 16-6A-13, inclusive, and Sections 16-23-18 to 16-23-23, inclusive, Code of Alabama 1975, are repealed.

Section 8. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved May 13, 1993

Time: 4:26 P.M.

Act No. 93-637

H. 123 – Rep. Payne

AN ACT

To require the county commission of each county to allow certain local veterans' organizations to use the county courthouse or other county building to conduct regular or special business meetings.

Be It Enacted by the Legislature of Alabama:

Section 1. (a) The county commission of each county of the state shall allow use of an appropriate meeting room in the county courthouse or other county building by any local veteran's organization to conduct regular and special business meetings.

(b) The term "veterans of the United States" as used in subsection (a) includes any person, male or female, who served on active duty, whether commissioned, enlisted, inducted, appointed, or mustered into the military or naval service of the United States and who has been discharged or released from that service under conditions other than dishonorable.

(c) The term "local veteran's organization" as used in subsection (a) shall mean any local chapter of a veterans' organization officially recognized by the State Board of Veterans' Affairs and which is statutorily authorized to make nominations to the Board or a local chapter of a veterans' organization which has a national charter authorized by an act of congress and shall include but not be limited to local chapters of the Alabama Department of the American Legion, the United Spanish American War Veterans, The Veterans of Foreign Wars, the Disabled American Veterans, Veterans of WWII of the USA Incorporated, AMVETS, ALAVETS, and American Ex-Prisoners of War, Incorporated.

(d) The county commission may make reasonable rules to implement the provisions of this act which shall include but not be limited to the security of court rooms and other county facilities, length and hours of proposed meetings, the number of meetings requested in any period of time, and conflicts involving simultaneous requests of two or more local veterans organizations. The county commission shall not be required to provide meeting space for any organization that fails to abide by the reasonable rules promulgated by the county commission any provision of this act to the contrary notwithstanding. No meetings authorized under this act shall involve fund raising activities.

Section 2. The provisions of this act are severable. If any part of this act is declared invalid or unconstitutional, that declaration shall not affect the part which remains.

Section 3. All laws or parts of laws which conflict with this act are repealed.

Section 4. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved May 13, 1993

Time: 4:27 P.M.

Act No. 93-638 H. 411 – Reps. Hamilton, Carter, Laird, Burke,
Harvey, Haney, Smith (R), Anderson,
Morrow, Turner, Hall, Butler,
Lindsey

AN ACT

Relating to mussel catcher's license fees and assessments on the purchase of freshwater mussels; to amend Section 9-11-372 of the Code of Alabama 1975, to provide for both a resident and nonresident mussel catcher's license; to further provide for the fees for licenses; to provide for a fee for certain mussels taken from Alabama waters; and to provide for certain misdemeanor penalties related thereto.

Be It Enacted by the Legislature of Alabama:

Section 1. Section 9-11-372 of the Code of Alabama 1975, as last amended, is amended to read as follows:

“§9-11-372.

“Before any person shall take or catch or attempt to take or catch any mussel or any type of mollusk for commercial purposes from the fresh waters of this state, he or she shall purchase a ‘mussel catcher's license.’ The license shall be issued in the same manner and be effective for the same period as commercial fishing licenses. The cost of the license shall be two hundred fifty dollars (\$250) for residents, and seven hundred fifty dollars (\$750) for nonresidents, as defined in Section 9-11-370, plus an issuance fee of \$1.00 which shall be in addition to the initial amount charged for the license. A violation of this section shall be a Class B misdemeanor, the punishment for which shall include, but not be limited to, a fine of five times the cost of the license.”

Section 2. (a) Any person, firm, or corporation who purchases or otherwise obtains freshwater mussels taken from Alabama waters shall pay to the Alabama Department of Conservation and Natural Resources Game and Fish Division the amount equal to five cents (\$0.05) per pound of mussel shells, with or without meat, purchased or obtained.

(b) The payment to the Game and Fish Division shall be calculated from receipts filled out by the buyer for each transaction. A copy

of each receipt shall be given to the seller and a copy retained by the buyer, and shall be made available by the buyer for inspection by agents of the Game and Fish Division for a period of two years. When mussels are exported without first going through a buyer, the method of payment shall be as described in the rules and regulations promulgated by the Game and Fish Division. For purposes of this act, a buyer is any person, firm, or corporation who buys, or otherwise obtains, mussels from mussel harvesters or mussel buyers from Alabama.

(c) Payments from buyers shall be made monthly and shall be received by the Game and Fish Division no later than the 15th day of the month following payment.

(d) Revenue from this act shall be used for mussel management, research, enforcement, and administration. However, no more than 50 percent of the total revenue shall be spent on enforcement.

(e) Violation of this section shall be punishable as a Class A misdemeanor.

Section 3. The provisions of this act are severable. If any part of this act is declared invalid or unconstitutional, that declaration shall not affect the part which remains.

Section 4. All laws or parts of laws which conflict with this act are repealed.

Section 5. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved May 13, 1993

Time: 4:30 P.M.

Act No. 93-639

H. 46 – Reps. McDowell, Zoghby

AN ACT

To amend Section 17-6-13 of the Code of Alabama 1975, to provide for an increase in compensation for returning officers, inspectors, and clerks.

Be It Enacted by the Legislature of Alabama:

Section 1. Section 17-6-13 of the Code of Alabama 1975, is amended to read as follows:

“§17-6-13.

“The returning officer, the inspectors, and clerks shall each be entitled to fifty dollars (\$50). The several claims shall be paid as preferred claims, out of moneys in the county treasury not appropriated,

on proper proof of service rendered. In all counties in which the compensation of election officials is prescribed by local law or general law of local application at an amount in excess of the amount prescribed, the compensation of the election officials shall not be increased or decreased. Those counties in which compensation of election officials is set at an amount in excess of five dollars (\$5) per day, but less than fifty dollars (\$50) per day, the provision of the local law or general law of local application relative thereto is superseded and the compensation prescribed shall be the total compensation of election officials in the counties."

Section 2. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved May 13, 1993

Time: 4:31 P.M.

Act No. 93-640

H. 47 – Reps. McDowell, Zoghby

AN ACT

To amend Section 17-4-153 of the Code of Alabama 1975, relating to the mileage allowance of members of boards of registrars.

Be It Enacted by the Legislature of Alabama:

Section 1. Section 17-4-153, Code of Alabama 1975, is amended to read as follows:

"§17-4-153.

"(a) Each registrar shall receive a salary in the amount of \$50.00 per day for each day's attendance upon business of the board, to be paid by the state and disbursed to the county commissions and disbursed by the county commissions to each registrar on order of a quorum of the board of registrars of the county. The state comptroller shall issue to each county commission on a monthly basis an amount sufficient to fund these payments plus the employer share of the social security or Federal Insurance Corporation Act tax. The county commission will provide to the state comptroller an invoice itemized to reflect payments made. If a legal holiday falls on a day the board is to be in session, and the courthouse of the county is closed for the holiday, the board of registrars shall be compensated for such holidays. Each registrar shall receive a mileage allowance equal to the amount allowed state employees or employees of the county, whichever is greater, for official travel in the course of attending the business of the board, including attending continuing

education programs. Travel and other expenses will be paid by the county commissions to the boards of registrars and the state will reimburse the county commissions based on a written request submitted by the county commissions to the state comptroller.

“(b) The provisions of this section regarding travel mileage shall not apply in any county having a population of 600,000 or more inhabitants according to the 1970 or any succeeding federal decennial census, and any currently effective local law or general law of local application regarding travel mileage for registrars in the county shall remain in full force and effect and shall not be repealed by operation of this chapter.

“(c) Members of the boards of registrars of this state are hereby declared to be state employees for the purposes of chapter 28 of Title 36 of the Code.

“(d) Members of the boards of registrars of this state shall be treated as equals with other state and county employees in regard to social security protection and benefits.

“(e) All payments by a county to any member of a county board of registrars (except for mileage or reimbursement for expenses) shall be treated for social security purposes equally with payments by that county to other county employees of the county.

“(f) The state office for social security and the state comptroller and each county commission are directed to take all necessary action to insure that members of the boards of registrars of this state are treated as other state and county employees in regard to social security protection and benefits as provided in chapter 28 of Title 36 of the Code, including, if necessary, amending the federal-state agreement referred to in chapter 28 of Title 36 of the Code, to implement the intent of the legislature as expressed herein.”

Section 2. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved May 13, 1993

Time: 4:32 P.M.

Act No. 93-641

H. 63 – Rep. Holley

AN ACT

To amend the title and Section 2 of Act 92-677, H. 29, 1992 Second Special Session, to provide further for the use and dissemination of data maintained in the state judicial information system; to provide for the recoupment of costs for accessing and using the judicial information system and for printing, publication, and distribution of court forms,

manuals, pamphlets, and informational materials supplied to individuals, corporations, partnerships, and governmental agencies and departments which are not part of the unified judicial system; and to provide that the proceeds collected from the recoupment of costs shall be deposited in the Court Automation Fund.

Be It Enacted by the Legislature of Alabama:

Section 1. The title of Act 92-677, H. 29, 1992 Second Special Session is amended to read as follows:

“To levy upon each person convicted of a crime in a municipal, district, or circuit court a criminal history processing fee; to provide that the fee shall be deposited into the Public Safety Automated Fingerprint Identification System Fund and Court Automation Fund; to provide for the use and dissemination of data maintained in the state judicial information system; to provide for the recoupment of costs for accessing the judicial information system and for the printing and publication costs of court forms, manuals, and informational materials; to provide that the proceeds collected from the recoupment of costs shall be deposited in the Court Automation Fund; and to make appropriations.”

Section 2. Section 2 of Act 92-677, H. 29, 1992 Second Special Session is amended to read as follows:

“Section 2. (a) There is created in the State Treasury a fund to be designated as the Public Safety Automated Fingerprint Identification System Fund and a fund to be designated as the Court Automation Fund. Seven dollars of each additional fee collected pursuant to this act shall be deposited into the State Treasury to the credit of the Public Safety Automated Fingerprint Identification System Fund and three dollars to the Court Automation Fund. All money deposited in the State Treasury to the credit of the Public Safety Automated Fingerprint Identification System Fund shall be expended for operations and maintenance of the Automated Fingerprint Identification System. All money deposited in the State Treasury Court Automation Fund shall be expended for equipment, operations, supplies, maintenance, and training related to court automation, court cost collection and the timely and efficient processing of court cases and for the other purposes enumerated in this section. No money shall be withdrawn or expended from these funds for any purpose unless the money has been allotted and budgeted in accordance with Article 4 (commencing with Section 41-4-80) of Chapter 4 of Title 41 of the Code of Alabama 1975, and only in the amounts and for the purposes provided by the Legislature in the general appropriations bill or other appropriation bills.

“(b) All data collected and maintained in the state judicial information system from the automated management systems operated by the Administrative Office of Courts and all manuals, forms, brochures, and publications developed by the Administrative

Office of Courts shall be used to assist with the administrative and management needs of court officials and employees within the unified judicial system. The authority for control and dissemination of data from the system or distribution of judicial forms, manuals, and publications to any individuals, corporations, partnerships, or governmental associations outside the unified judicial system is vested in the Administrative Director of Courts.

“(c) The Administrative Director of Courts shall promulgate policies and procedures, in conformity with rules adopted by the Supreme Court of Alabama, for the handling of applications for information from the state judicial information system and applications for court forms, manuals, and publications from all persons or entities outside the unified judicial system. The Administrative Director of Courts may establish in the policies and procedures, subscription, rental, or user fees, and other charges applicable to non-judicial system entities to be used to offset the costs involved in transferring or providing any information requested.

“(d) All monies received by the Administrative Office of Courts from applications, user fees, service charges, subscriptions, donations, grants, leases, rentals, bequests, loans or any other sources, either public or private, relating to the operation and administration of the state judicial information system or the publication and distribution of court forms and informational material shall be deposited in the Court Automation Fund. The fund shall be used to help defray the costs of maintenance, acquisition and operation of the computer system and the research, preparation, printing, and distribution of forms and manuals, which shall include, but not be limited to, equipment, supplies, line charges, printing, salaries for employees, and other incidental expenses required for the operation or expansion of the system or associated with developing and distributing informational materials.

“(e) Nothing contained in this section shall be construed to prevent, prohibit, or otherwise limit or restrict public access to individual court records from the official custodians thereof, if the records are otherwise subject to public disclosure by law or court rule, nor shall anything in this act be construed to allow access to any court records which are not otherwise subject to public disclosure by law or court rule.”

Section 3. The provisions of this act are severable. If any part of this act is declared invalid or unconstitutional, that declaration shall not affect the part which remains.

Section 4. This act shall become effective on the first day of the second month after its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved May 13, 1993

Time: 4:33 P.M.

Act No. 93-642

H. 468 – Rep. Johnson

AN ACT

To authorize the State Board of Health while administering the United States Department of Agriculture Food and Nutrition Service funded Special Supplemental Food Program for Women, Infants, and Children (WIC) Program; to adopt reasonable rules relating to the enforcement, penalties, and sanctions pursuant to the administration of the WIC Program; and to impose criminal penalties.

Be It Enacted by the Legislature of Alabama:

Section 1. For the purpose of this act, the following words shall have the following meanings unless the context clearly indicates otherwise:

(1) **LOCAL AGENCY.** A private, nonprofit health agency that provides program services in a designated area by written agreement with the State Board of Health.

(2) **PARTICIPANT.** A certified pregnant, postpartum, or breastfeeding woman, infant, or a child who is receiving supplemental food or a food instrument under the WIC Program.

(3) **PERSON.** Any individual, partnership, limited partnership, corporation, association, firm, trust, estate, or any other legal entity.

(4) **STATE BOARD OF HEALTH.** The State Department of Public Health.

(5) **VENDORS.** The individual, partnership, limited partnership, or corporation authorized by the State Board of Health.

(6) **WIC PROGRAM.** The United States Department of Agriculture Food and Nutrition Service Special Supplemental Food Program for Women, Infants, and Children.

Section 2. (a) The State Board of Health may promulgate and adopt rules it deems necessary to carry out its responsibilities under this act and under relevant federal laws and regulations pursuant to the Alabama Administrative Procedure Act. The rules shall have the force and effect of law and shall include, but not be limited to, an administrative appeal process for vendors subject to sanctions under this act and the rules promulgated pursuant to this act.

(b) The Alabama Administrative Procedure Act shall apply to all administrative rules and procedures of the board under this act, except that in case of conflict between the Alabama Administrative Procedure Act and this act, this act shall control. The Alabama Administrative Procedure Act shall not apply to the

adoption of any rule required by federal law in which the board is precluded from exercising any discretion.

Section 3. The State Board of Health may establish procedures for investigations, sanctions, penalties, and contract terminations for private nonprofit local agencies, WIC Program food vendors, suppliers, distributors, wholesalers, manufacturers, or participants in accordance with relevant federal regulations.

Section 4. (a) The State Board of Health may recover monies erroneously paid to private nonprofit local agencies, WIC Program food vendors, suppliers, distributors, wholesalers, manufacturers, or participants.

(b) The board may file an action in any district or circuit court to collect the sum upon refusal to pay by any entity or individual stated in subsection (a). The board is also authorized to collect the costs of court plus reasonable attorneys' fees in the collection of these costs.

Section 5. The State Board of Health may establish procedures to administer probation or civil monetary penalties, or both, to WIC Program food vendors. If probation is imposed, the vendor shall be informed that any violation of the WIC Program during the probationary period shall result in the implementation of the original proposed sanction. A civil monetary penalty shall be determined by the vendor's average monthly redemption of WIC Program food instruments for the 12-month period ending with the month immediately preceding that month during which the vendor was charged with the violation. The average monthly redemption figure will be multiplied by 10 percent. The product of this calculation shall be multiplied by the number of months for which the vendor would have been disqualified under the sanctions for which the vendor was charged. Consideration shall also be given as to the ability of the vendor to pay. The total civil monetary penalty shall not exceed ten thousand dollars (\$10,000) for any vendor.

(b) The board, through the WIC Program Director, may mitigate or settle any adverse action under this act that it considers advantageous to the WIC Program prior to an administrative hearing under the Alabama Administrative Procedure Act.

Section 6. (a) A civil monetary penalty or overcharge collected by the State Board of Health shall be deposited in a dedicated account designated by the board to be used in the administration of the WIC Program.

(b) A civil penalty or overcharge collected under this act shall not revert to the State General Fund, but shall remain in the account designated under subsection (a) and is continuously

appropriated to the State Board of Health; however the expenditure of said sums so appropriated shall be budgeted and allotted pursuant to the Budget Management Act and Article 4 of Chapter 4 of Title 41 of the Code of Alabama, 1975.

Section 7. (a) Any person who obtains WIC Program benefits for himself or herself or for another by fraud or abuse or anyone who otherwise defrauds or abuses the WIC Program shall be guilty of a Class A misdemeanor, and, upon conviction, shall be punished as prescribed by law. Fraud or abuse is defined as:

- (1) Fraudulently reporting of income to receive benefits.
- (2) Receiving benefits for services from two or more clinics at the same time.
- (3) Selling, trading, or giving away supplies, medications, food, or food instruments issued by the program.
- (4) Accepting cash from vendors.
- (5) Using food instruments as payment of any debt.
- (6) Unauthorized altering of food instruments.
- (7) Redeeming food instruments reported lost, stolen, or destroyed.
- (8) Purchasing non-food items with food instruments.
- (9) Returning WIC Program foods for credit or cash.
- (10) Providing cash or credit in place of authorized foods.
- (11) Substitution of non-food items for listed foods.
- (12) Providing less foods than is specified on a food instrument and requesting full payment for the specified amount.
- (13) Charging WIC Program participants more for foods that other customers are charged.
- (14) Receiving, accepting, buying, taking by way of trade or barter, or otherwise unlawfully possessing WIC Program food instruments or WIC Program foods.

(b) A second or subsequent conviction of fraud or abuse of the WIC Program shall be a Class B felony, and, upon conviction, shall be punished as prescribed by law.

Section 8. A decision of the State Board of Health imposing any adverse action may be appealed pursuant to the Alabama Administrative Procedure Act. If there is a conflict between the provisions relating to penalties and the conduct of administrative hearings under this act and federal law, the federal law shall prevail.

Section 9. The administrative, civil, and criminal remedies and penalties in this act are cumulative, and the use by the State Board of Health of one remedy shall not preclude the use by the board of any other remedy based upon the same incident or occurrence.

Section 10. The provisions of this act are severable. If any part of this act is declared invalid or unconstitutional, that declaration shall not affect the part which remains.

Section 11. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved May 13, 1993

Time: 4:34 P.M.

Act No. 93-643 H. 464 – Reps. Gullatt, Turnham, Laird, Fuller,
Higginbotham, Williams, Flowers,
Beasley, Carothers, Clark (J), Mathis

AN ACT

To amend Section 41-9-311, Code of Alabama 1975, relating to the Historic Chattahoochee Historic Compact to provide further for the election and voting of the members of the Historic Chattahoochee Commission.

Be It Enacted by the Legislature of Alabama:

Section 1. Section 41-9-311, Code of Alabama 1975, is amended to read as follows:

“§41-9-311.

“The governor on behalf of this state is hereby authorized to execute a compact, in substantially the following form, with the state of Georgia, and the legislature hereby signifies in advance its approval and ratification of such compact, which compact is as follows:

“HISTORIC CHATTAHOOCHEE COMPACT

“Article I.

“The purpose of this compact is to promote the cooperative development of the Chattahoochee valley’s full potential for historic preservation and tourism and to establish a joint interstate authority to assist in these efforts.

“Article II.

“This compact shall become effective immediately as to the states ratifying it whenever the states of Alabama and Georgia have ratified it and congress has given consent thereto.

"Article III.

"The states which are parties to this compact (hereinafter referred to as 'party states') do hereby establish and create a joint agency which shall be known as the Historic Chattahoochee Commission (hereinafter referred to as the 'commission'). The commission shall consist of 28 members who shall be bona fide residents and qualified voters of the party states and counties served by the commission. Election for vacant seats shall be by majority vote of the voting members of the commission board at a regularly scheduled meeting. In Alabama, two shall be residents of Barbour county, two shall be residents of Russell county, two shall be residents of Henry county, two shall be residents of Chambers county, two shall be residents of Lee county, two shall be residents of Houston county, and two shall be residents of Dale county. In Georgia, one shall be a resident of Troup county, one shall be a resident of Harris county, one shall be a resident of Muscogee county, one shall be a resident of Chattahoochee county, one shall be a resident of Stewart county, one shall be a resident of Randolph county, one shall be a resident of Clay county, one shall be a resident of Quitman county, one shall be a resident of Early county, one shall be a resident of Seminole county and one shall be a resident of Decatur county. In addition, there shall be three at large members who shall be selected from any three of the Georgia member counties listed above. The commission at its discretion may appoint as many advisory members as it deems necessary from any Georgia or Alabama county which is located in the Chattahoochee valley area. The contribution of each party state shall be in equal amounts. If the party states fail to appropriate equal amounts to the commission during any given fiscal year, voting membership on the commission board shall be determined as follows: The state making the larger appropriation shall be entitled to full voting membership. **The total number of members from the other state shall be divided into the amount of the larger appropriation and the resulting quotient shall be divided into the amount of the smaller appropriation. The then resulting quotient, rounded to the next lowest whole number, shall be the number of voting members from the state making the smaller contribution.** The members of the commission from the state making the larger contribution shall decide which of the members from the other state shall serve as voting members, based upon the level of tourism, preservation, promotional activity, and general support of the commission's activities by and in the county of residence of each of the members of the state making the smaller appropriation. Such determination shall be made at the next meeting of the commission following September 30 of each year. Members of the commission shall serve for terms of office as follows: Of the 14 Alabama members, one from each of said counties

shall serve for two years and the remaining member of each county shall serve for four years. Upon the expiration of the original terms of office of Alabama members, all successor Alabama members shall be appointed for four-year terms of office, with seven vacancies in the Alabama membership occurring every two years. Of the 14 Georgia members, seven shall serve four-year terms and seven two-year terms for the initial term of this compact. The terms of the individual Georgia voting members shall be determined by their place in the alphabet by alternating the four and two year terms beginning with Chattahoochee county, four years, Clay county, two years, Decatur county, four years, etc. Upon the expiration of the original terms of office of Georgia members, all successor Georgia members shall be appointed for four-year terms of office, with seven vacancies in the Georgia membership occurring every two years. Of the three Georgia at large board members, one shall serve a four-year term and two shall serve two-year terms.

"All board members shall serve until their successors are appointed and qualified. Vacancies shall be filled by the voting members of the commission. The first chairman of the commission created by this compact shall be elected by the board of directors from among its voting membership. Annually thereafter, each succeeding chairman shall be selected by the members of the commission. The chairmanship shall rotate each year among the party states in order of their acceptance of this compact. Members of the commission shall serve without compensation but shall be entitled to reimbursement for actual expenses incurred in the performance of the duties of the commission.

"Article IV.

"The headquarters of the commission shall be selected by the commission and shall be centrally located in the Chattahoochee valley area. Such headquarters shall be consistent with the legitimate need of the commission. The commission shall hold an annual meeting at the commission headquarters and one-half of the then members of the commission shall constitute a quorum for the transaction of business. Additional meetings may be held at such times and places as may be considered necessary, desirable or convenient, upon call of the chairman, or, in the case of his absence or incapacity, of the vice-chairman, or, on call of any three members of the commission. The commission shall determine and establish its own organization and procedure in accordance with the provisions of this compact and shall have an official seal. The commission shall elect its chairman, its vice-chairman, its secretary and its treasurer, and such officers shall hold office for a period of one year or until a successor is elected. Neither the secretary nor the treasurer need be members of the commission. The commission may require that the

treasurer thereof be bonded in an amount to be determined by the commission.

“Article V.

“The commission shall have the right to adopt such rules and regulations as may be necessary to carry out the intent and purposes of this compact, and shall be authorized to provide for an executive committee of not fewer than five of its members to whom it may delegate such powers and authority as the commission may deem to be advisable.

“Article VI.

“No member of the commission shall receive any pay or emolument other than his actual expenses incurred in the discharge of his duties as a member of the commission. All such expenses are to be paid from the funds of the commission. Further, it shall be unlawful for any member of the commission or any employee thereof to charge, receive or obtain, either directly or indirectly, any fee, commission, retainer or brokerage out of the funds of the commission, and no member of the commission or officer or employee thereof shall have any interest in any land, materials or contracts sold to or made or negotiated with the commission, or with any member or employee thereof acting in his capacity as a member of such commission. Violation of any provisions of this section shall be a misdemeanor and upon conviction shall be punishable by removal from membership or employment and by a fine of not less than \$100.00 or by imprisonment not to exceed six months or both.

“Article VII.

“The commission shall establish and maintain at such lawful depository or depositories as it shall select, a ‘historic Chattahoochee fund’ composed of the money or moneys which may come into its hands from admissions, inspection fees, gifts, donations, grants, bequests, loans, bond issues, governmental appropriations or other sources, either public or private. Such funds shall be used by the commission to pay for the purposes herein set forth, and the servicing, retirement or amortization of any bonds or other evidences of indebtedness issued by the commission.

“Article VIII.

“The commission shall be authorized:

“1. To investigate and select available sites for housing historic exhibits, including the surrounding grounds, with such state, federal or local agencies and governments and private individuals, corporations, associations or other organizations as may be involved, taking into consideration all pertinent factors affecting

the suitability of such sites; to acquire, transport, renovate, maintain and exhibit appropriate and suitable military, or historic units, articles, exhibits and attractions; to have full, complete and exclusive jurisdiction over the sites and any related exhibits;

"2. To promote tourism throughout the Chattahoochee valley by attending travel shows; issuing news releases, calendars of events and news letters; publishing brochures and pamphlets; constructing mobile travel exhibits; producing films and other visual presentations as may be necessary; and advertising in magazines and/or newspapers;

"3. To acquire by rent or lease agreement or otherwise the necessary housing facilities; and to establish, improve and enlarge available facilities, including providing them with necessary equipment, furnishings, landscaping and related facilities, including parking areas and ramps, roadways, sewers, curbs and gutters;

"4. To enter into such contracts and cooperative agreements with the local, state and federal governments, with agencies of such governments, with private individuals, corporations, associations and other organizations as the commission may deem necessary or convenient to carry out the purposes of this compact, with such contracts and agreements to include leases to private industry;

"5. To borrow money from private sources, the state emergency fund or such other source as may be acceptable to the commission under such terms and conditions as may be provided by law, and, in order to provide security for the repayment of any such private loans, the commission shall have the authority to pledge such future revenues from admissions and any other sources as may from time to time, be necessary or desirable;

"6. To issue and sell at any time and from time to time its revenue bonds for the purpose of providing funds to acquire, enlarge, improve, equip and maintain its property, and for the payment of obligations incurred for such purposes. The principal and interest on any such revenue bonds shall be payable solely out of the revenues derived from the project;

"7. To make such contracts in the issuance of its bonds as may seem necessary or desirable to assure their marketability and to provide for their retirement by a pledge of all or any revenue which may come to the commission from the investment of the proceeds of the sale of such bonds or from any other source whatsoever;

"8. To accept public or private gifts, grants and donations;

"9. To acquire property by purchase, lease, gift or license; and to dispose of any property of the commission when, in the opinion of the commission, such disposition is deemed expedient;

"10. To allocate and expend funds from all donations, income and revenue from any source whatsoever coming into its treasury for the fulfillment and accomplishment of its duties and responsibilities in such manner as may be necessary and appropriate for the perfection of the purposes of this compact;

"11. To sell, convey, transfer, lease or donate any property, franchise, grant, easement, license or lease or interest therein which it may own, and to transfer, assign, sell, convey or donate any right, title or interest which it may have in any lease, contract, agreement, license or property;

"12. To hire such laborers, artisans, caretakers, technicians, stenographers and administrative employees and supervisory and professional personnel as may be necessary or advisable for the carrying out in the most efficient and beneficial manner of the purposes and provisions of this compact;

"13. To employ an executive director who shall serve at the pleasure of the commission, who shall be responsible directly to the commission, whose compensation shall be fixed by the commission, whose duties and authority shall be designated by the commission and who shall be paid from funds of the commission;

"14. To make such rules and regulations as the commission may deem necessary and desirable to provide for the operation, management and control of its facilities; and

"15. To perform such other acts necessary or incidental to the accomplishment of the purposes of this compact, whether or not specifically authorized in this section, and not otherwise prohibited by law.

"Article IX.

"The commission shall constitute a public body corporate and shall have, in addition to those set forth specifically in this compact, all powers necessary or convenient to effect the purposes for which it has been established under and by the terms of this compact, together with all powers incidental thereto or necessary to the discharge of its said powers and duties.

"Article X.

"The commission, its property and income and all bonds issued by the commission, the income from such bonds or from the investment of such income and all conveyances, leases, mortgages and deeds of trust by or to the commission shall be exempt from all taxation in the state of Alabama and the state of Georgia.

"Article XI.

"All obligations incurred by the commission and all bonds issued by it shall be solely and exclusively an obligation of the commission

and shall not create an obligation or debt of the state of Alabama or the state of Georgia or any county or municipality of either.

“Article XII.

“The commission shall maintain at all times accurate records and books of account covering revenues and expenditures. Such records and books shall be available for audit at any time by the department of examiners of public accounts, and shall be audited at least every two years in the same manner as audits are made of other state agencies and departments.”

Section 2. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law, and when it becomes effective in the State of Georgia.

Approved May 13, 1993

Time: 4:35 P.M.

Act No. 93-644

H. 731 – Rep. Kennedy

AN ACT

To reopen the Teachers' Retirement System of Alabama to allow active and contributing members of the system to purchase prior service credit for employment as an official court reporter with a circuit court in the state, service rendered to a local mental health authority or service as school support personnel; provide for payment for the credit; to provide for a termination; to provide that certain active members of the Teachers' Retirement System may receive credit for certain prior service under specified terms and conditions; to provide that the employer for whom the service was rendered shall pay the cost for the prior service credit; to provide for the calculation of the cost; and to amend Section 16-25-11.5, Code of Alabama 1975.

Be It Enacted by the Legislature of Alabama:

Section 1. Any active and contributing member of the Teachers' Retirement System of Alabama who, prior to the effective date of this act, was a regular full-time employee as an official court reporter with a circuit court in the state or a full-time employee of a local mental health authority or school support personnel, shall be eligible to receive credit for such employment provided that the member claiming the credit shall have worked not less than 10 consecutive years as an official court reporter, and complies with the conditions prescribed in Section 2 of this act.

Section 2. A member eligible under Section 1 of this act may receive credit for regular, full-time employment rendered as an

official court reporter with a circuit court in the state or service rendered to a local mental health authority provided that as conditions precedent to the receipt of credit:

(1) The member contributes, within one year of the effective date of this act, to the Teachers' Retirement System for each year of claimed credit a percentage of his or her annual earnable compensation or final average salary, whichever is greater; the applicable percentage of the annual earnable compensation, or final average salary, whichever is greater, shall be the prevailing percentage rates of the employer and member contributions, as required by the most recent actuarial valuation.

(2) The presiding judge of the judicial circuit by which the member was employed shall certify in writing to the Teachers' Retirement System, the dates of the member's employment together with certification that the member was a regular full-time employee as an official court reporter with a circuit court in the state.

(3) The local mental health authority, or successor organization, for which the member was employed shall certify in writing to the Teachers' Retirement System, the dates of the member's employment together with certification that the member was a regular full-time employee of a local mental health authority in the State of Alabama.

Section 3. Notwithstanding the foregoing Sections 1 and 2, a member of the system shall not receive credit for any service where at the time of retirement he or she has credit or is entitled to receive any benefits whatsoever for the same service under any other retirement or pension plan which is wholly or partially funded from public funds; provided, however, that this section shall not be construed to apply to participation in the federal social security program. In the event of disqualification of certain service, contributions made under this act shall be refunded to the member.

Section 4. Any active and contributing member of the Teachers' Retirement System, who was employed by an employer whose employees were participating in the Teachers' Retirement System at any time between March 21, 1983 and November 1, 1988, shall be entitled to receive credit for all prior service rendered for the eligible employer, regardless of the manner in which the salary of the member was paid, the entity that actually employed the member, or the source of funds for the salary of the member. The foregoing entitlement shall not apply to any person who at the same time of the prior service was also a student at the school or institution where he or she was employed. The member shall receive credit for the prior service when the eligible employer

to whom the prior service was rendered remits to the Teachers' Retirement System the contributions required by Section 5 of this act. Notwithstanding the foregoing language, no member of the Teachers' Retirement System of Alabama shall be eligible to receive credit for any service that the member is already credited with in the system or in any other public retirement plan, with the exception of the federal social security program.

Section 5. Any member who rendered prior service as prescribed in Section 4 of this act, shall be entitled to receive credit for all prior service as a teacher rendered by him or her. The eligible employer to whom the prior service was rendered shall pay to the secretary-treasurer, within one year from the effective date of this act, for each year of claimed service, a sum equal to a percentage of his or her average final compensation or current annual earnable compensation, whichever is greater, the applicable percentage shall be the sum of the prevailing percentage rates of employer and member contributions, as required by the most recent actuarial valuations, for each year of prior service credit purchased. In the event the employer is unable to verify the employment of any person covered in Section 4 of this act, upon certification of the employer that records are not available, the member may submit affidavits from two disinterested parties with personal knowledge attesting to the employment of the member.

Section 6. Section 16-25-11.5, Code of Alabama 1975, is amended to read as follows:

“§16-25-11.5.

“(a) Any active and contributing member of the teachers' retirement system of Alabama shall be eligible to receive up to five years of creditable service for employment in a support personnel position in the state of Alabama, if the member claiming the credit has not less than 10 years of contributing membership service exclusive of military service credit under the teachers' retirement system, and the member performs and complies with the conditions prescribed in subsection (b) of this section.

“(b) A member of the teachers' retirement system of Alabama eligible under subsection (a) of this section may receive credit as provided in subsection (a) if as a condition precedent to the receipt of the credit: (i) the member contributes within one year prior to his or her date of retirement, to the teachers' retirement system for each year of claimed service credit a percentage of his or her annual earnable compensation or his or her average final salary whichever is higher; the applicable percentage of the annual compensation or average final salary, whichever is higher, shall be the sum of the prevailing percentage rates of employer and member

contributions as required by the most recent actuarial valuation; (ii) the member shall claim purchase and receive credit for support personnel service in increments of not less than one year unless the member's total or balance of claimed service is less than one year in which event he or she shall claim and purchase credit for the entire period.

“(c) Anything in this section to the contrary notwithstanding, a member shall not be eligible to purchase credit under this section for service for which he or she already has credit under the teachers' retirement system or any other retirement or pension plan which is wholly or partly funded from public funds or other moneys of public institutions of this or any other state, provided that nothing herein shall be construed to apply to participation in the federal social security program. In the event of disqualification of service purchased under this section, contributions made on account of the disqualified service shall be refunded to the member.”

Section 7. This act shall become effective October 1, 1993, upon its passage and approval by the Governor or upon its otherwise becoming a law.

Approved May 13, 1993

Time: 4:36 P.M.

Act No. 93-645

H. 113 – Rep. Hooper

AN ACT

To establish a Recycling Industry and Market Development Council to assist in the development of markets for recovered materials and products with recycled content in this state and to provide for the function, duties, and membership of the council.

Be It Enacted by the Legislature of Alabama:

Section 1. There is established a Recycling Industry and Market Development Council to assist in the development of markets in this state for recovered materials and products with recycled content.

Section 2. The members of the council shall be appointed not later than 90 days after this act is effective.

Section 3. The council shall consist of 15 appointed members, as follows:

(1) One member representing the paper industry, appointed by the Speaker of the House of Representatives.

(2) One member representing the oil industry, appointed by the Governor.

(3) One member representing county governments, who shall be appointed by the Governor.

(4) One member representing the solid waste collection and disposal industry, appointed by the Lieutenant Governor.

(5) One member representing the recycling industry, appointed by the Lieutenant Governor.

(6) One member representing the aluminum industry, appointed by the Lieutenant Governor.

(7) One member representing the steel can and steel scrap recycling industry, appointed by the Governor.

(8) One member representing municipalities, appointed by the Speaker of the House of Representatives.

(9) One member representing the glass industry, appointed by the Lieutenant Governor.

(10) One member representing the plastics industry, appointed by the Speaker of the House of Representatives.

(11) One member representing higher education research institutions, appointed by the Governor.

(12) One member representing the tire industry, appointed by the Governor.

(13) One member representing the hazardous waste recycling industry, appointed by the Lieutenant Governor.

(14) One member representing the general public, appointed by the Chair of the House Standing Committee on Commerce, Transportation, and Utilities, from a list provided by non-profit organizations each having its principal program extending generally throughout the state whose primary concerns are environmental protection for the state and its citizens and whose membership exceeds 500 individual residents of Alabama, including, but not limited to, the Alabama Audubon Council (comprising the chapters in Alabama of the National Audubon Society), the Alabama Conservancy, the Alabama Chapter of the Sierra Club and their respective successor organizations.

(15) One member representing the general public, appointed by the Chair of the Senate Standing Committee on Commerce, Transportation and Utilities, from a list provided by non-profit organizations each having its principal program extending generally throughout the state whose primary concerns are environmental

protection for the state and its citizens and whose membership exceeds 500 individual residents of Alabama, including, but not limited to, the Alabama Audubon Council (comprising the chapters in Alabama of the National Audubon Society), the Alabama Conservancy, the Alabama Chapter of the Sierra Club and their respective successor organizations.

Section 4. Each member of the council shall serve a two-year term beginning on the date of appointment until a successor is qualified and appointed.

Section 5. (a) The council shall select a chair and vice-chair. The council shall adopt operating procedures and meet on the call of the chair or of a majority of the members. A majority of members constitutes a quorum to do business.

(b) The council may apply for and receive grants, contributions, or donations from any source, including the state and federal governments, in order to carry out the duties and responsibilities of the council as provided in this act.

Section 6. Not later than the first day of the next regular session of the Alabama Legislature following the appointment of the council, the council shall provide to the Governor and to the Legislature an initial report which, at a minimum, shall include:

(1) A description and analysis of this state's existing recycling industry.

(2) An analysis of the projected long-term capacity of existing markets to absorb materials generated by source separation, recovery, or recycling programs.

(3) An analysis of potential markets in this state, in other states, or in foreign countries for recovered materials and products with recycled content from this state.

(4) An analysis of institutional, economic, and technical barriers to the use of recovered materials and products with recycled content.

(5) Recommendations for actions which may be taken to increase demand for source separated, recovered or recycled materials or products.

(6) Recommendations for actions which may be taken to increase the incentives for private individuals and for business and industry to consume or export recovered materials and products with recycled content.

(7) An analysis of the compatibility of recycling with waste treatment or disposal methods and recommendations on the feasibility of the implementation of mechanisms for cooperative marketing for recyclable materials.

(8) Recommendations on categories of materials which should be recovered, given existing and potential markets for those materials.

(9) A study of methods and cost effectiveness of source separation and recycling of recovered materials.

(10) A study of packaging reduction.

(11) A study of the design of products at the primary stage of development to promote recyclability.

Section 7. Following its initial report, the council may submit to the Governor and to the Legislature by the end of each calendar year an annual report on recycling activities in this state which, at a minimum, shall include:

(1) Revisions which the council determines necessary to its initial report.

(2) A description and analysis of the amounts and types of waste materials recovered or recycled in this state during the preceding year.

(3) Recommendations regarding materials which should be added to or deleted from source separation, recovery, and recycling programs.

(4) Any other recommendations, including tax incentives, to facilitate the development of markets for recovered materials or products in this state.

Section 8. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved May 13, 1993

Time: 4:37 P.M.

Act No. 93-646

H. 321 – Reps. Fuller, Clark (J), Butler, Freeman, Smith (C), Harper, Letson, Hooper, Kennedy, Bryant, McMillan, Hawkins, Carter, Turnham, Sanderson, Petelos, Kvalheim, Zoghby, Powell, Curry, Knight (A), Gullatt, Parker (P), Black (L), Cosby, Harvey, Dolbare, Morrow, Venable, Morton,

Rich, Gaines, Walker, Turner,
 White, Layson, McDaniel,
 Flowers, Cullins, Starkey,
 Millican, Higginbotham, Box,
 Rogers (F), Hogan, Barnes,
 Collins, McDowell, Bugg

AN ACT

To provide a cost-of-living increase for certain public education employees with the beginning of the 1993-94 fiscal year and to continue thereafter; to provide that certain salary schedules at two-year colleges shall be upgraded to reflect a cost-of-living pay adjustment; and to establish miscellaneous pay provisions.

Be It Enacted by the Legislature of Alabama:

Section 1. DISBURSEMENT PROVISIONS. The State Budget Officer shall allocate to the State Board of Education, the Board of Trustees of the Alabama Institute for Deaf and Blind, the Board of Youth Services Department District, the Alabama School of Math and Science, and the Alabama School of Fine Arts for disbursement to the employees thereof funds based on the following criteria. It is the intent of the Legislature that this act does not make appropriations.

(a) Kindergarten through Grade 12 (K-12). A six and one-half percent salary increase shall be given to each teacher employed in all public school programs for the fiscal year 1993-94 over and above the salary received during the 1992-93 fiscal year. A six and one-half percent salary increase shall be given to each public education support worker employed for the fiscal year 1993-94 over and above the total salary received during the 1992-93 fiscal year regardless of number of positions held, excepting employees covered under the state's merit system at the Department of Youth Services.

(b) Alabama Institute for Deaf and Blind. A six and one-half percent salary increase shall be given to each person employed by the Alabama Institute for Deaf and Blind for the fiscal year 1993-94 over and above the salary received during the 1992-93 fiscal year.

(c) Postsecondary. All salary schedules of the two-year postsecondary institutions shall be revised by the State Board of Education to reflect a salary increase of six and one-half percent. The six and one-half percent salary increase shall be given to each person employed for the fiscal year in addition to any step increase to which the employee is otherwise entitled. The Postsecondary Education Department shall take proper steps to ensure that employees on all Salary Schedules are given full credit for prior work experience in the public schools and colleges in Alabama, and

shall take care to ensure proper placements on said Salary Schedules. Those employees entitled to credit for prior work experience in the public schools and colleges of Alabama as previously required by Acts 88-691 and 85-796 and 90-325 who have not been granted such credit on the Salary Schedules shall be provided backpay if such credit has not been provided.

Section 2. MISCELLANEOUS. The following provisions are hereby established.

(a) All of the salary increases which are established by the Legislature or authorized by the State Board of Education shall be paid in full to each person employed before the end of the applicable fiscal year as defined in the Code of Alabama.

(b) Salary increases mandated by the Legislature or authorized by the State Board of Education for county and city boards of education shall be understood to apply to employees with contracts of up to 180 days. Additional pro rata salary increments shall be granted to those employees whose contracts extend beyond 180 days.

(c) The salary increases contained throughout any pay raise act as passed by the Legislature or authorized by the State Board of Education shall be exclusive of all local increments due.

(d) No employee shall be dismissed or have his work hours or salary reduced due to the provisions of any pay raise act mandated by the Legislature or authorized by the State Board of Education.

(e) Each city and county board of education shall establish and maintain a written salary schedule for each class and type of employee.

(f) Any person employed by any city or county board of education, the Alabama Institute for Deaf and Blind, the Youth Services Department School District, the Alabama School of Math and Science, or the Alabama School of Fine Arts who holds an earned doctorate degree from an accredited institution of higher learning shall be entitled to a pay provision of \$1,000 per fiscal year for the earned doctorate degree. This provision shall remain in effect from year to year for those employees who from time to time receive earned doctorate degrees from accredited institutions of higher learning.

Section 3. REPEALER. This act is supplementary and shall not be construed to repeal any provision of law not in direct conflict herewith; however, to the extent of such conflict, those laws or parts of laws are repealed.

Section 4. SEVERABILITY. In the event any section, sentence, clause or provision of this act is declared invalid or unconstitutional

by a court of competent jurisdiction, such declaration shall not affect the validity of the remaining sentences, clauses, or provisions of this act, which shall continue effective.

Section 5. EFFECTIVE DATE. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved May 13, 1993

Time: 4:38 P.M.

Act No. 93-647

H. 612 – Rep. Ford

AN ACT

To amend Section 41-16-57, Code of Alabama 1975, relating to competitive bids on certain contracts, to extend the time limit for which a lease-purchase contract may be awarded.

Be It Enacted by the Legislature of Alabama:

Section 1. Section 41-16-57, Code of Alabama 1975, is amended to read as follows:

“§41-16-57.

“(a) When purchases are required to be made through competitive bidding, awards shall be made to the lowest responsible bidder taking into consideration the qualities of the commodities proposed to be supplied, their conformity with specifications, the purposes for which required, the terms of delivery, transportation charges, and the dates of delivery.

“(b) The awarding authority in the purchase of or contract for personal property or contractual services shall give preference, provided there is no sacrifice or loss in price or quality, to commodities produced in Alabama or sold by Alabama persons, firms, or corporations. Notwithstanding the foregoing, no county official, county commission, school board, city council or city councilmen, or other public official, state board, or state agency charged with the letting of contracts or purchase of materials for the construction, modification, alteration, or repair of any publicly owned facility may specify the use of materials or systems by a sole source, unless:

“(1) The governmental body can document to the satisfaction of the state of Alabama building commission that the ‘sole source’ product or service is of an ‘indispensable’ nature, all other viable

alternatives have been explored, and it has been determined that only this product or service will fulfill the function for which the product is needed. Frivolous features will not be considered.

“(2) The sole source specification has been recommended by the architect or engineer of record and who also documents that there is no other product available and that the use of the requirement is of an indispensable nature and why.

“(3) All information substantiating the use of a sole source specification is documented in writing and is filed into the project file.

“(c) The awarding authority or requisitioning agency may reject any bid if the price is deemed excessive or quality of product inferior.

“(d) Each record, with the successful bid indicated thereon, and with the reasons for the award if not awarded to the lowest bidder, shall, after award of the order or contract, be open to public inspection.

“(e) Contracts for the purchase of personal property or contractual services shall be let for periods not greater than three years. ‘Lease-purchase’ contracts for capital improvements and repairs to real property shall be let for periods not greater than ten years and all other lease-purchase contracts shall be let for periods not greater than five years.”

Section 2. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved May 13, 1993

Time: 4:39 P.M.

Act No. 93-648

S. 382 – Senator Bennett

AN ACT

Relating to the Bessemer Division of the Tenth Judicial Circuit in Jefferson County, amending Act No. 202, H. 449, 1990 Regular Session, so as to increase the number of Deputy District Attorneys in the Bessemer Division of the circuit.

Be It Enacted by the Legislature of Alabama:

Section 1. In the Bessemer Division of the Tenth Judicial Circuit in Jefferson County, Sections 1, 7, 8, 9, 10, 11, and 12 of Act No. 202, H. 449, 1990 Regular Session, are amended to read as follows:

"Section 1. In the Tenth Judicial Circuit of Alabama, Bessemer Division, the elected assistant district attorney of said circuit shall be authorized to appoint ten (10) deputy district attorneys. Such deputy district attorneys appointed pursuant to this act shall be qualified to practice law in the courts of this state, and shall serve at the pleasure of the appointing assistant district attorney. Such deputy district attorneys shall be state officers and shall perform such duties in the circuit as the elected assistant district attorney may require.

"Section 7. The elected assistant district attorney of said circuit shall be authorized to designate two (2) level one deputy district attorneys to serve in any circuit court, inferior criminal court, county criminal court or district court now or hereafter created. These two (2) deputy district attorneys shall serve as a level #1 deputy district attorneys.

"Section 8. The annual compensation to be paid the said two (2) deputy district attorneys designated to serve in any circuit court, inferior criminal court, county criminal court or district court now or hereafter created shall be as provided in the schedule of salaries hereinabove mentioned and as set out in Section 6 above. Total annual compensation for the said two (2) deputy district attorneys shall be paid by the county or counties within said Tenth Judicial Circuit, which compensation shall be paid from the general funds of said county in equal semi-monthly installments as the salaries of other county officers are paid.

"Section 9. The elected assistant district attorney of said circuit shall be authorized to designate two (2) deputy district attorneys to serve in any inferior criminal court, county criminal court or district court now or hereafter created. These two (2) deputy district attorneys shall serve as a level #2 deputy district attorneys.

"Section 10. The annual compensation to be paid the said two (2) deputy district attorneys designated to serve in any inferior criminal court, county criminal court or district court now or hereafter created shall be as provided in the schedule of salaries hereinabove mentioned and as set out in Section 6 above. Total annual compensation for the said two (2) deputy district attorneys shall be paid by the county or counties within said Tenth Judicial Circuit, which compensation shall be paid from the general funds of said county in equal semi-monthly installments as the salaries of other county officers are paid.

"Section 11. The elected assistant district attorney of said circuit shall be authorized to designate two (2) deputy district attorneys to serve in any juvenile court or family court of said

circuit. These two (2) deputy district attorneys shall serve as a level #3 deputy district attorneys.

“Section 12. The annual compensation to be paid the said two (2) deputy district attorneys designated to serve in any juvenile court or family court of said circuit shall be as provided in the schedule of salaries hereinabove mentioned and as set out in Section 6 above. The total annual compensation for the said two (2) deputy district attorneys shall be paid by the county or counties within said Tenth Judicial Circuit, which compensation shall be paid from the general funds of said county in equal semi-monthly installments as the salaries of other county officers are paid.”

Section 2. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved May 13, 1993

Time: 4:40 P.M.

Act No. 93-649

S. 622 – Senators Barron, Escott-Russell, Corbett, Smith (B), Windom, deGraffenried, Owens, Mitchem, Dixon, Dial, Waggoner, Bedsole, Denton, Lipscomb, Hale, Parsons and Little

AN ACT

To amend Section 25-5-50 of the Code of Alabama 1975, relating to the Worker's Compensation Law, to specify that a licensed real estate agent would not be considered an employee under certain circumstances for purposes of the law and further provide a mechanism for independent contractors to elect to file an affidavit of exemption from workers' compensation coverage and thereby not be considered employees for purposes of the workers' compensation law and to provide for validation of such affidavits of exemption by the Department of Industrial Relations, Workers' Compensation Division.

Be It Enacted by the Legislature of Alabama:

Section 1. Section 5-5-50 of the Code of Alabama 1975, is amended to read as follows:

“Section 25-5-50.

“(a) This article and Article 2 of this chapter shall not be construed or held to apply to an employer of a domestic employee; an employer of a farm laborer; an employer of a person whose

employment at the time of the injury is casual and not in the usual course of the trade, business, profession, or occupation of the employer; an employer who regularly employs less than five employees in any one business, or a municipality having a population of less than 2,000 according to the most recent federal decennial census. An employer who regularly employs less than five employees in any one business; a farm-labor employer; an employer of a domestic employee; or a municipality having a population of less than 2,000 according to the most recent federal decennial census, may accept and become subject to this article and Article 4 of this chapter by filing written notice thereof with the Department of Industrial Relations, a copy thereof to be posted at the place of business of the employer; provided further, that an employer who has so elected to accept this article and Article 4 of this chapter may at any time withdraw the acceptance by giving like notice of withdrawal. Notwithstanding the foregoing, an employer electing not to accept coverage under this article and Article 4 of this chapter shall notify in writing each employee of the withdrawal of coverage. Additionally, the employer shall post a notice in a conspicuous place notifying all employees and applicants for employment that workers' compensation insurance coverage is not available.

"(b) Notwithstanding subsection (a), an officer of a corporation may elect annually to be exempt from coverage by filing written certification of the election with the department and the employer's insurance carrier.

"At the end of any calendar year, a corporate officer who has been exempted, by proper certification from coverage, may revoke the exemption and thereby accept coverage by filing written certification of his or her election to be covered with the department and the employer's insurance carrier.

"The certification for exemption or reinstatement of coverage shall become effective on the first day of the calendar month following the filing of the certification of exemption or reinstatement of coverage with the department.

"If the corporate officer elects to be exempt from coverage, the election shall not relieve the employer from continuing coverage for all other eligible employees who may have been covered prior to the election or who may subsequently be employed by the firm.

"(c) This section shall not be construed to mandate any school board to provide coverage until sufficient funds are appropriated from the special educational trust fund to implement the provisions. Nothing contained herein shall prohibit any school board that voluntarily elects to provide such coverage from doing so with local or other available funds.

“(d) This section shall provide for voluntary coverage of certified volunteer fire departments as described in Section 9-3-17 and legally organized rescue squads that meet the minimum personnel and equipment standards as established by the Alabama Association of Rescue Squads, that are engaged in fighting a fire or performing other duties involving any emergency incident and while performing any official supervised duties of the organization, including maintaining equipment and attending official training classes, and while traveling to and from an emergency incident.

“(e) In all cases where an injury that is compensable under the terms of the Alabama workers’ compensation law is received by a volunteer fire fighter or rescue squad member, the wages for purposes of computing the average weekly wage shall be equal to 66 2/3 percent of what he or she is earning at his or her regular place of employment or 66 2/3 percent of the minimum wage, whichever is greater.

“(f) State certified volunteer fire departments and legally organized rescue squads are herein granted the right to purchase workers’ compensation medical or disability insurance, or both, but in no event are they required to do so.

“In no event shall the regular employer of a volunteer fire fighter or rescue squad member be liable for a compensable injury under this section.

“(g) A licensed real estate agent operating under a licensed broker shall not be considered an employee for the purposes of this chapter.

“(h) An independent contractor, as defined by the guidelines of the United States Internal Revenue Service, who regularly employs less than five employees in any one business, and who is engaged in the business of constructing or assisting on-site in the construction of single-family, detached residential dwellings, may file with the Department of Industrial Relations, Workers Compensation Division an affidavit of exemption from workers compensation coverage which affidavit shall certify that the independent contractor desires to be exempt and to exempt his employees from being able to recover under the workers compensation policy or self insurance of a person for whom the independent contractor will perform work as an independent contractor. This affidavit of exemption must be filed with the Alabama Department of Industrial Relations, Workers Compensation Division, which shall validate it. An affidavit validated under this section is binding and holds harmless from all workers’ compensation benefit claims of injured employees of an independent contractor a person who contracts with an independent contractor as described above after receiving a copy of the validated affidavit and the workers compensation insurance carrier of the person who contracts with such independent contractor.

Nothing herein is intended or shall be construed as abrogating the liability of or immunizing the person who contracts with an independent contractor as described above from third party liability to an injured worker pursuant to Ala. code Section 25-5-11, or pursuant to any other provisions of statutory or case law other than the workers compensation act as described above."

Section 2. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved May 13, 1993

Time: 4:41 P.M.

Act No. 93-650

S. 461 – Senator Bedsole

AN ACT

To amend Section 33-4-48, Code of Alabama 1975, relating to compensation of pilots of ships and vessels; and to increase certain compensation paid to pilots.

Be It Enacted by the Legislature of Alabama:

Section 1. Section 33-4-48, Code of Alabama 1975, is amended to read as follows:

"§33-4-48.

"(a) The master, owner, agent, or operator of any ship or vessel shall pay the pilot who conducts a vessel into or out of the bay or harbor of Mobile a fee to be fixed by the pilotage commission at the following rates for actual draft of water at the time of pilotage for every vessel crossing the outer bar of Mobile Bay: from March 29, 1988 to March 28, 1993, the sum of \$19.00 per draft foot; from March 29, 1993 to March 28, 1994, the sum of twenty dollars (\$20) per draft foot; from March 29, 1994 to March 28, 1995, the sum of twenty-one dollars (\$21) per draft foot; and effective March 29, 1995 and thereafter, the sum of twenty-two dollars (\$22) per draft foot. The minimum pilot fee shall be computed on a minimum of 15 feet regardless of whether or not the vessel has a draft of less than 15 feet at the time of pilotage.

"(b) In addition to the pilotage fee based on the draft of the vessel, there shall also be paid to the pilots the following pilotage fees for every vessel crossing the outer bar of Mobile Bay: until March 28, 1993, the sum of two cents per ton for each of the vessel's maximum registered gross tons; and effective March 29, 1993 and thereafter, the sum of two and one-half cents (\$.025) per ton for each of the vessel's maximum registered gross tons. The minimum pilot fee shall be computed on a minimum of 6,500 maximum registered gross tons,

regardless of whether or not the vessel has a maximum registered gross tonnage of less than 6,500 maximum registered gross tons.

(c) In addition to the foregoing fees, the pilotage commission shall set fees for special services rendered by the pilots to vessels which are incidental to or connected with vessels being conducted into or out of the bay or harbor of Mobile which include, but are not limited to, docking and undocking, going on and off drydock, turning the vessel, shifting, anchorage and stand-by, and delayed sailing.

(d) Vessels trading between any domestic port on the Gulf of Mexico and the port of Mobile, drawing seven feet or less of water shall not be required to employ a pilot, but if they do, their regular pilotage shall be paid. No fishing smack shall be subject to pilotage."

Section 2. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved May 13, 1993

Time: 4:42 P.M.

Act No 93-651

S. 562 – Senators Mitchem, Horn, Barron,
Langford, and Little

AN ACT

To make an appropriation from the Alabama Special Educational Trust Fund to the Alabama Sports Festival for the fiscal year ending September 30, 1994, and to require an operations plan and audited financial statement prior to release of any funds.

Be It Enacted by the Legislature of Alabama:

Section 1. There is hereby appropriated for the fiscal year ending September 30, 1994, the sum of ninety thousand dollars (\$90,000) out of the funds in the Alabama Special Educational Trust Fund to the Alabama Sports Festival.

Section 2. Prior to release of any funds appropriated under this bill for fiscal year 1993-94, an operations plan for fiscal year 1993-94 and an audited financial statement for all operations during fiscal year 1991-92 must be forwarded to the Director of Finance. It is the intent to release fiscal year 1993-94 funds following receipt of these reports.

Section 3. This act shall become effective on October 1, 1993.

Approved May 13, 1993

Time: 4:43 P.M.

Act No. 93-652

S. 16 -- Senator Dial

AN ACT

Providing certain educational assistance benefits for certain active members of the Alabama National Guard.

Be It Enacted by the Legislature of Alabama:

Section 1. The following words and terms used in this act shall have the meanings as set forth in this section:

(1) **Active member.** A member of a federally recognized unit of the Alabama National Guard meeting the minimum requirements for satisfactory membership as defined in the regulations of the Department of the United States Army and the Department of the United States Air Force.

(2) **Alabama National Guard.** Federally recognized units of the Alabama National Guard.

(3) **Degree Enhancing Curriculum.** A series of courses programmed to culminate in a specific degree when successfully completed.

(4) **Tuition.** The total semester, quarter, or classroom hour cost of instruction and fees to the student as periodically published in the catalog of the educational institution.

(5) **Tuition Benefits.** The difference in the amounts provided for tuition pursuant to the Montgomery G. I. Bill, any student grant, and the Alabama National Guard Education Assistance Program, or where no other tuition benefit is available, the full amount of tuition.

Section 2. (a) Any active member of the Alabama National Guard who has successfully completed advanced individual training or commissioning shall be entitled to the tuition benefits provided by this act upon his or her enrollment in a degree enhancing curriculum in any junior college, vocational or technical school that is under the authority of the state board of education, or his or her enrollment in an undergraduate degree enhancing curriculum in any public college or university within the state. Certification and eligibility for the tuition benefits provided by this act shall be determined by the state education services office of the Alabama National Guard which shall promulgate and implement administrative rules and procedures that it deems necessary to carry out and monitor the tuition benefits provided by this act.

(b) Any active member of the Alabama National Guard who enrolls in a degree enhancing curriculum utilizing the tuition benefits provided by this act shall complete the requirements for an

undergraduate degree no later than ten years from the date of initial enrollment or the active member shall be responsible for all costs of any further studies required to attain his or her degree. Failure to maintain an overall "C" average, or the grade point equivalent thereof, at the conclusion of any two successive semesters or any three successive quarters shall result in the termination of the tuition benefits provided by this act.

(c) Each educational institution that enrolls an active member of the Alabama National Guard who is eligible for the tuition benefits provided by this act shall take necessary action to insure that the active member is aware of all benefits that he or she may be entitled to under the Montgomery G. I. Bill, any student grant, and the Alabama National Guard Education Assistance Program. In order to receive the tuition benefits provided by this act, the active member of the Alabama National Guard shall take the necessary steps to utilize all of the above benefits.

Section 3. The tuition benefits provided by this act may be terminated for the following reasons:

(i) Failure to satisfactorily complete the Alabama National Guard military obligation.

(ii) Failure to maintain a 90 percent attendance at annual training and drill assemblies as required by the Alabama National Guard.

(iii) Four unsatisfactory drill performances in a calendar year while enrolled in the tuition benefits program provided by this act.

Section 4. Any active member of the Alabama National Guard who is an out-of-state resident shall qualify for the tuition benefits provided by this act subject to the following limitations and conditions:

(i) The member enrolls in an educational institution within this state.

(ii) The tuition benefits provided to the out-of-state member shall not exceed an amount equivalent to the amount the member would have received if he or she resided in Alabama.

Section 5. The provisions of this act shall be supplemental to any other laws providing educational assistance to active members of the Alabama National Guard, and shall not repeal any law not in conflict with this act.

Section 6. The tuition benefits provided by this act shall be effective for the fall semester or quarter of 1993.

Section 7. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved May 13, 1993

Time: 4:45 P.M.

Act No. 93-653

H. 767 – Rep. White

AN ACT

To alter, rearrange, and extend the boundary lines and corporate limits of the municipality of Brewton in Escambia County.

Be It Enacted by the Legislature of Alabama:

Section 1. The boundary lines and corporate limits of the municipality of Brewton in Escambia County are altered, rearranged, and extended to include within the corporate limits of the municipality, in addition to the lands now included, all of the following territory:

PARCEL I:

Beginning at the Southeast corner of the Southwest Quarter of the Northeast Quarter of Section 17, Township 1 North, Range 10 East, a point in the property line of Brewton Airport property; running thence with the airport property line due South 330 feet to a point, corner to airport property; thence with the airport property due East 203.8 feet to a point; thence South 54° 28' West 886.1 feet to a point; thence North 27° 00' West 800 feet; thence North 71° 32' East 928.4 feet to a point in the airport property line; thence along the airport property line due South 161.9 feet to the point of beginning containing 11.1 acres, lying partly in the Southwest Quarter of the Northeast Quarter, partly in the Northeast Quarter of the Southeast Quarter and partly in the Northwest Quarter of the Southeast Quarter of Section 17, Township 1 North, Range 10 East, Escambia County, Alabama.

PARCEL II:

Commencing at the Southwest corner of the Southeast Quarter of the Northeast Quarter of Section 17, Township 1 North, Range 10 East, a point in the property line of Brewton Airport property; running thence with the airport property line due South 330 feet to a point corner to airport property; thence with the airport property due East 450 feet to a point said point being the point of beginning; thence running due East 263.6 feet; thence South 63°

00' West 413.6 feet; thence North 28° 45' East 214.2 feet to the point of beginning containing 0.6 acres, lying in the Northeast Quarter of the Southeast Quarter of Section 17, Township 1 North, Range 10 East, Escambia County, Alabama.

PARCEL III:

Commencing at the Southwest corner of the Northwest Quarter of the Northwest Quarter of Section 16, Township 1 North, Range 10 East, a point in the property line of Brewton Airport property, running thence with the airport property line due east 382.6 feet to a point, said point being the point of beginning; running thence on a line parallel to and 500 feet from the centerline of Runway 6-24 North 63° 00' East 277.7 feet to a point in the Airport property line; thence with said property line due South 126.1 feet; thence due West 247.4 feet to the point of beginning containing 0.4 acres lying in the Northwest Quarter of the Northwest Quarter of Section 16, Township 1 North, Range 10 East, Escambia County, Alabama.

PARCEL IV:

Commencing at the Southwest corner of the Northwest Quarter of the Northwest Quarter of Section 16, Township 1 North, Range 10 East, a point in the property line of Brewton Airport property; running thence with the airport property line due east 630 feet; thence due North 300 feet; thence due East 336.9 feet to a point, said point being the point of beginning; running thence on a line parallel to and 500 feet from the centerline of Runway 6-24 North 63° 00' East 354.8 feet to a point in the airport property line; thence with said property line due South 161.1 feet; thence due West 313.1 feet to the point of beginning containing 0.6 acres lying in the Northwest Quarter of the Northwest Quarter of Section 16, Township 1 North, Range 10 East, Escambia County, Alabama.

PARCEL V:

Commencing at the Southwest corner of the Northwest Quarter of the Northwest Quarter of Section 16, Township 1 North, Range 10 East, a point in the property line of Brewton Airport property; running thence with the airport property line due East 630 feet; thence due North 300 feet; thence due East 650 feet thence due North 320 feet; thence due East 282.7 feet to a point, said point being the point of beginning; running thence on a line parallel to and 500 feet from the centerline of runway 6-24 North 63° 00' East 386.0 feet to a point in the airport property line; thence with said property line due South 187.1 feet; thence due West 367.3 feet to the point of beginning containing 0.8 acres, lying in the Northeast Quarter of the Northwest Quarter, of Section 16, Township 1 North, Range 10 East, Escambia County, Alabama.

PARCEL VI

Southwest Quarter of Northeast Quarter of Northwest Quarter (SW 1/4 of NE 1/4 of NW 1/4) and South Half of Southeast Quarter of Northwest Quarter of Northwest Quarter (S 1/2 of SE 1/4 of NW 1/4 of NW 1/4) and Southwest Quarter of Northwest Quarter (SW 1/4 of NW 1/4)— EXCEPT Southeast Quarter of Southwest Quarter of Northwest Quarter (SE 1/4 of SW 1/4 of NW 1/4)— of Section Sixteen (16); and Southeast Quarter of Northeast Quarter (SE 1/4 of NE 1/4) and North Half of North Half of Northeast Quarter of Southeast Quarter (N 1/2 of N 1/2 of NE 1/4 of SE 1/4) of Section Seventeen (17), all in Township One (1) North, Range Ten (10) East, containing 95 acres, more or less.

PARCEL VII

All that part of the West Half of Southwest Quarter (W 1/2 of SW 1/4 of Section Fifteen (15), which lies West of Alabama Highway No 93 (now Alabama Highway No. 41); South Half (S 1/2) and West Half of Northeast Quarter (W 1/2 of NE 1/4) and all that part of the Southeast Quarter of Northeast Quarter (SE 1/4 of NE 1/4) lying West of Alabama Highway No. 93 (now Alabama Highway No. 41) and the East Half of Northeast Quarter of Northwest Quarter (E 1/2 of NE 1/4 of NW 1/4) and the Southeast Quarter of Northwest Quarter (SE 1/4 of NW 1/4) and the Southeast Quarter of Southwest Quarter of Northwest Quarter (SE 1/4 of SW 1/4 of NW 1/4) of Section Sixteen (16); Northeast Quarter of Northeast Quarter (NE 1/4 of NE 1/4) of Section Twenty-one (21)—EXCEPT a fraction lying South and East of the county road leading into Alabama Highway No. 93 (now Alabama Highway No. 41); all that part of the Northwest Quarter of Northwest Quarter (NW 1/4 of NW 1/4) of Section Twenty-two (22), lying West of Alabama Highway No. 93 (now Alabama Highway No. 41); and North and West of the County Road leading into said Highway No. 93 (now Alabama Highway No. 41), all in Township One (1) North, Range Ten (10) East. All containing 670 acres, more or less.

Section 2. In accordance with Section 11-42-6(b) of the Code of Alabama 1975, a map showing what territory is proposed to be annexed to the municipality of Brewton is on file in the office of the Judge of Probate in Escambia County, Alabama, and the map is open to the inspection of the public.

Section 3. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved May 17, 1993

Time: 11:30 A.M.

Act No. 93-654

H. 774 – Rep. White

AN ACT

To authorize the City of Brewton in Escambia County to construct, maintain and operate a cable television service.

Be It Enacted by the Legislature of Alabama:

Section 1. As used in this act the word “city” shall mean the City of Brewton, Alabama in Escambia County, a municipal corporation organized under the laws of the State of Alabama.

Section 2. In addition to all other powers, rights and authority heretofore granted by law:

(a) The city is hereby authorized and empowered to acquire, purchase, construct, lease, operate, maintain, enlarge, extend and improve a community antenna television system, “CATV,” which may be defined, without limiting the generality, as a facility that in whole or in part, receives directly, or indirectly, or over the air, and amplifies or otherwise modifies the signal transmitting programs broadcast by one or more television or radio stations from any point within this state or any other state and distributes such signals by wire or cable or any other means to subscribing members of the public who pay for such service.

Section 3. For the purposes of this act, the city may exercise the right of eminent domain. Such eminent domain proceedings shall be conducted in the manner now provided by law.

Section 4. (a) In payment for the purchase, lease, construction, acquisition, extension or maintenance of such CATV system, the city may issue bonds, warrants or other certificates of indebtedness, or may enter into lease-purchase contracts for the acquisition of such CATV system.

(b) The city, in order to secure the prompt payment of the principal and interest of all debts, bonds or other evidences of indebtedness incurred or issued by it or lease-purchase contracts entered into by it for the construction, acquisition, lease, extension or maintenance of a CATV system may execute a mortgage or deed of trust upon any or all of such systems and all property used solely in connection therewith, including the franchise of any part thereof, and additionally, any pledge the revenues from the operation of the city’s water, sewer, or gas utility systems (the “Utility Revenues”) toward the payment of debt service on such indebtedness.

(c) Such mortgage or deed of trust may contain such terms, conditions, covenants and warranties for the protection of the city and holders of such bonds or securities issued by the city as may be

determined and agreed upon by the governing body of the city and persons, firms or corporations owning such debts, bonds or securities.

(d) Such mortgages may provide that in the event of the foreclosure of such mortgage or deed of trust, that the purchaser at such foreclosure sale may acquire the right, privilege or franchise of operating such system as may be so sold or conveyed, and such purchaser or his vendee may have the right, authority and privilege to carry on and operate such system in the same manner, on the same terms and to the same extent as the city is authorized to operate, with the exception of eminent domain authority, until the city may redeem such system from such mortgage sale.

(e) Such mortgage or deed of trust may provide that such rates and charges shall be established and maintained as are sufficient to meet the costs of operation and maintenance; and such city may pledge all of the receipts, earnings and revenues from the operation of the system and additionally may pledge the Utility Revenues from the payment of the debts, bonds or other evidences of indebtedness or lease-purchase contracts secured by such mortgages or deeds of trust.

Section 5. The city shall have all the power and authority necessary and proper to the exercise of the powers conferred on it by this act and in effectuating the purposes of this act.

Section 6. For the transaction of business pursuant to this act, the city shall be exempt from the jurisdiction and control of the Alabama Public Service Commission with respect to such business.

Section 7. All laws or parts of laws in conflict with this act are repealed.

Section 8. The provisions of this act are severable. If any part of the act is declared invalid or unconstitutional, such declaration shall not affect the part which remains.

Section 9. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved May 17, 1993

Time: 11:31 A.M.

Act No. 93-655

H. 779 – Rep. Letson

AN ACT

Relating to Lawrence County; to alter, rearrange, and extend the boundary lines and corporate limits of the Town of North Courtland to cause areas east of and contiguous to existing corporate limits to be included within the Town.

Be It Enacted by the Legislature of Alabama:

Section 1. The boundary lines and corporate limits of the Town of North Courtland in Lawrence County are hereby altered, rearranged, and extended so as to include within the corporate limits of the Town the two contiguously located tracts of land described as follows:

Commence at the Northeast corner of Section 30, Township 4 South, Range 7 West, Lawrence County, Alabama; thence run West along the section line a distance of 250.42 feet to the point of beginning; thence run South a distance of 557 feet; thence run East a distance of 140 feet; thence run South a distance of 753 feet; thence run West a distance of 700 feet to the Southeast corner of Springhill Subdivision; thence run North along the East boundary line of said subdivision and continue along the East boundary line of Hillcrest Subdivision for a total distance of 1310 feet to the section line; thence run East along the section line a distance of 560 feet to the point of beginning; and containing 19.26 acres, more or less.

Commence at the northwest corner of the SE 1/4 of the NE 1/4 of Section 30, Township 4 South, Range 7 West, Lawrence County, Alabama; thence South 89 degrees 57 minutes East a distance of 520 feet to the true point of beginning; thence continue South 89 degrees 57 minutes East a distance of 700 feet; thence South 0 degrees 39 minutes West a distance of 150 feet; thence North 89 degrees 57 minutes West a distance of 700 feet; thence North 0 degrees 39 minutes East a distance of 150 feet to the true point of beginning; and containing 2.4 acres, more or less.

Section 2. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved May 17, 1993

Time: 11:32 A.M.

Act No. 93-656

H. 794 – Rep. Hill

AN ACT

Relating to Shelby County; authorizing the county commission to levy an additional one-cent sales and use tax; providing for the collection, distribution, and use of the proceeds of the tax to retire the current indebtedness of the county; prescribing penalties and fixing punishment for violation of this act; and providing for a termination date.

Be It Enacted by the Legislature of Alabama:

Section 1. This act shall only apply to Shelby County.

Section 2. As used in this act, state sales and use tax means the tax imposed by the state sales and use tax statutes, including, but not limited to, Sections 40-23-1, 40-23-2, 40-23-3, 40-23-4, 40-23-60, 40-23-61, 40-23-62, and 40-23-63 of the Code of Alabama 1975.

Section 3. The County Commission of Shelby County may levy, in addition to all other taxes, including, but not limited to, municipal gross receipts license taxes, a one-cent privilege license tax against gross sales or gross receipts. Notwithstanding the foregoing, the amount of the tax authorized to be levied pursuant to this act upon each person, firm, or corporation engaged in the business of selling at retail any motor vehicle, truck trailer, semi-trailer, or house trailer shall be three tenths of one percent (.003) of the sales price. Provided, however, when any used motor vehicle, truck trailer, semitrailer, or house trailer is taken in trade, or in a series of trades, as a credit or part payment on the sale of a new or used vehicle, the tax authorized to be levied herein shall be paid on the net difference, that is, the price of the new or used vehicle sold less the credit for the used vehicle taken in trade.

The gross receipts of any business and the gross proceeds of all sales which are presently exempt under the state sales and use tax statutes are exempt from the tax authorized by this act.

Section 4. The tax levied by the county commission pursuant to this act shall be collected by the State Department of Revenue or otherwise as provided by resolution of the Shelby County Commission at the same time and in the same manner as state sales and use taxes are collected. On or prior to the date the tax is due, each person subject to the tax shall file with the department a report in the form prescribed by the department. The report shall set forth, with respect to all sales and business transactions that are required to be used as a measure of the tax levied pursuant to this act, a correct statement of the gross proceeds of all the sales and gross receipts of all business transactions. The report shall also include items of information pertinent to the tax as the department may require. Any person subject to the tax levied pursuant to this act may defer reporting credit sales until after their collection, and in the event the person defers reporting them, the person shall thereafter include in each monthly report all credit collections made during the preceding month, and shall pay the tax due at the time of filing the report. All reports filed with the department under this section shall be available for inspection by the county commission, or its designee.

Section 5. Each person engaging or continuing in a business subject to the tax levied pursuant to this act, shall add to the sales

price or admission fee and collect from the purchaser or the person paying the admission fee the amount due by the taxpayer because of the sale or admission. It shall be unlawful for any person subject to the tax to fail or refuse to add to the sales price or admission fee and to collect from the purchaser or person paying the admission fee the amount required to be added to the sale or admission price. It shall be unlawful for any person subject to the tax levied pursuant to this act to refund or offer to refund all or any part of the amount collected or to absorb or advertise directly or indirectly the absorption or refund of any portion of the tax.

Section 6. The tax levied pursuant to this act shall constitute a debt due Shelby County. The tax, together with any interest and penalties, shall constitute and be secured by a lien upon the property of any person from whom the tax is due or who is required to collect the tax. The department shall collect the tax, enforce this act, and have and exercise all rights and remedies that the state or the department has for collection of the state sales and use tax. The department may employ special counsel as is necessary to enforce collection of the tax levied pursuant to this act and to enforce this act. The department shall pay the special counsel any fees it deems necessary and proper from the proceeds of the tax collected by it for Shelby County.

Section 7. All provisions of the state sales and use tax statutes with respect to the payment, assessment, and collection of the state sales and use tax, making of reports, keeping and preserving records, penalties for failure to pay the tax, promulgating rules and regulations with respect to the state sales and use tax, and the administration and enforcement of the state sales and use tax statutes which are not inconsistent with this act shall apply to the tax levied pursuant to this act. The State Commissioner of Revenue and the department shall have and exercise the same powers, duties, and obligations with respect to the tax levied pursuant to this act that are imposed on the commissioner and department by the state sales and use tax statutes. All provisions of the state sales and use tax statutes that are made applicable by this act to the tax levied pursuant to this act, and to the administration and enforcement of this act, are incorporated by reference and made a part of this act as if fully set forth herein.

Section 8. The department shall charge Shelby County for collecting the tax levied pursuant to this act in an amount or percentage of total collections as may be agreed upon by the commissioner and the Shelby County Commission. The charge shall not exceed five percent of the total amount of the tax collected in the county. The charge may be deducted each month from the gross revenues from the tax before certification of the amount of the proceeds due Shelby County for that

month. The Commissioner of Revenue shall pay into the State Treasury all amounts collected under this act, as the tax is received by the department on or before the first day of each successive month. The commissioner shall certify to the State Comptroller the amount collected and paid into the State Treasury for the benefit of Shelby County during the month immediately preceding the certification. The State Comptroller shall issue a warrant each month payable to the County Treasurer of Shelby County in an amount equal to the certified amount which shall be paid into the county general fund and deposited into a special account to be used exclusively to pay off the indebtedness of the county that is existing on the effective date of this act. In addition thereto, any net proceeds resulting from the sale of the county sewer system, water system, or excess and unused property adjacent to the Shelby County Airport, and any non-recurring "one-time" "windfall" funds received by the Shelby County Commission in any budget year while this tax is in effect, shall be deposited into a special account to be used exclusively to pay off the aforesaid existing debt which is existing on the effective date of this act. Upon certification by the chair of the county commission that such county indebtedness has been retired and that it no longer exists, or upon the expiration of 10 years from the first levy of this tax by the Shelby County Commission, whichever event first occurs, the tax levied pursuant to this act shall terminate and the provisions of this act and the tax shall automatically become null and void.

Section 9. During any period while this tax is actually levied, neither the present county commission, nor any subsequent county commission may create any new program requiring county funding, expand any existing program beyond that required to meet inflationary factors as evidenced by a nationally recognized Consumer Price Index, create any new personnel positions, provide grants or other funds to any nongovernmental agency unless such measure or expenditure is approved by the affirmative vote of at least seven of the nine members of the county commission. In no event, however, shall anything contained herein be construed to authorize the use of any part of the proceeds from the tax herein authorized to be used for any purpose whatsoever except for the payment of debt existing on the effective day of this act.

Section 10. The provisions of this act are severable. If any part of this act is declared invalid or unconstitutional, that declaration shall not affect the part which remains.

Section 11. This act shall become effective on the first day of the second month following its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved May 17, 1993

Time: 11:33 A.M.

Act No. 93-657

H. 813 – Rep. Parker (P)

AN ACT

To authorize the Morgan County Commission and any municipality located in Morgan County to contract for the administration and enforcement by the Morgan County Commission of any tax or license ordinance enacted by such municipality and the collection of taxes and license fees due thereunder; to provide for compensation for the Morgan County Commission in providing said services; to provide powers and authorities to the Morgan County Commission in administering and enforcing said tax and license ordinances; to provide for severability; and to provide an effective date.

Be It Enacted by the Legislature of Alabama:

Section 1. The Morgan County Commission and any municipality located in Morgan County, if authorized by resolution and ordinance duly adopted by the Morgan County Commission and the governing body of said municipality, may enter into agreements by which the Morgan County Commission, or employees thereof, may administer and enforce any tax or license ordinance enacted by said municipality, and collect the taxes and license fees due thereunder, and by which said municipality may agree to pay the Morgan County Commission compensation for its services, not to exceed 10 percent of the aggregate amount collected pursuant to said agreement. In no event, however, may the compensation charged or received by the Morgan County Commission be contingent upon the amount collected from any taxpayer whose records are examined and audited by the Morgan County Commission in and about the performance of such agreement.

Section 2. The Morgan County Commission, and its designated employees, in and about the performance of any such contract or agreement and the administration and enforcement of said tax and license ordinances, shall have the same rights, remedies, powers, and authorities as would be available to the State Department of Revenue or said municipality if said ordinances were being administered and enforced by the State Department of Revenue or said municipality.

Section 3. The provisions of this act are severable. If any part of this act is declared invalid or unconstitutional, that declaration shall not affect the part which remains.

Section 4. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved May 17, 1993

Time: 11:34 A.M.

Act No. 93-658

H. 843 – Reps. Black (L), Blakeney

AN ACT

To alter, rearrange, and extend the boundary lines and corporate limits of the municipality of Lisman in Choctaw County.

Be It Enacted by the Legislature of Alabama:

Section 1. The boundary lines and corporate limits of the municipality of Lisman in Choctaw County are altered, rearranged, and extended to include within the corporate limits of the municipality, in addition to the lands now included, all of the following territory:

TOWNSHIP 14 NORTH, RANGE 3 WEST

SECTION 17: NE 1/4 of SW 1/4; W 1/2 of SW 1/4; E 1/2 of NW 1/4; SW 1/4 of NW 1/4; W 1/2 of NW 1/4 of NW 1/4.

SECTION 18: N 1/2 of NE 1/4 of NE 1/4.

SECTION 8: Begin at the SW corner of said Section 8, go East 210 feet North 510 feet, West 210 feet and then South to the Point of beginning.

SECTION 7: SE 1/4 of SE 1/4; S 1/2 of NE 1/4; SW 1/4 of SE 1/4.

Section 2. In accordance with Section 11-42-6(b) of the Code of Alabama 1975, a map showing what territory is proposed to be annexed to the municipality of Lisman is on file in the office of the Judge of Probate in Choctaw County, Alabama, and the map is open to the inspection of the public.

Section 3. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved May 17, 1993

Time: 11:35 A.M.

Act No. 93-659

H. 816 – Reps. Rich, McDaniel

AN ACT

Regulating the liquor traffic in Marshall County; providing for certain taxes on alcoholic beverages in any community development district in the county and distributing the proceeds from the taxes.

Be It Enacted by the Legislature of Alabama:

Section 1. Notwithstanding any other laws, the taxes levied and collected on wholesale and retail sales of liquor, beer, and

table wine in the City of Guntersville shall also be levied and collected at the same rates and in the same manner on wholesale and retail sales of the same alcoholic beverages sold at wholesale or retail in any community development district in Marshall County established under Act No. 92-532.

Section 2. The proceeds of revenues collected in a community development district in the county under Section 1 of this act shall be distributed as follows:

- a. 1/3 to the Marshall County General Fund.
- b. 1/3 to the Office of the Sheriff.
- c. 1/3 to the office of the Marshall County District Attorney.

Section 3. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved May 17, 1993

Time: 11:36 A.M.

Act No. 93-660

H. 862 – Reps. Hogan, Cagle

AN ACT

Relating to the Fourteenth Judicial Circuit of Alabama and the establishment of a pretrial intervention program by the District Attorney of the Fourteenth Judicial Circuit.

Be It Enacted by the Legislature of Alabama:

Section 1. Establishment.

A. The District Attorney of the 14th Judicial Circuit of Alabama may in his discretion establish a Pre-Trial Intervention Program (hereinafter known as PTIP) set out hereinafter.

B. The District Attorney of the 14th Judicial Circuit shall retain all discretionary powers endowed by the common law and provided for by statutes and acts of this state or powers or discretion otherwise provided by law for the District Attorney of the 14th Judicial Circuit.

C. The hereinafter described Pre-Trial Intervention Program shall be under the direct supervision and control of the District Attorney of the 14th Judicial Circuit and he may contract with any agency, person(s), or corporations or individual for services related to this act or for any law enforcement purpose. The District

Attorney may in his discretion employ necessary persons to accomplish the provisions of this act or other law enforcement purposes who shall serve at the pleasure of the District Attorney.

Section 2. Eligibility.

A. Any person charged with a criminal offense whose jurisdiction is in the circuit or district court of the 14th Judicial Circuit of Alabama (Walker County) may apply to the District Attorney of the 14th Judicial Circuit for admittance to the Pre-Trial Intervention Program as hereinafter and heretofore set out. No persons charged with a Class A felony or a crime that involved serious injury to a person or death shall be eligible for pre-trial intervention.

B. Any person deemed by the District Attorney to be a threat to the safety or well-being of the community shall not be eligible for the Pre-Trial Intervention Program. This section shall not apply if the District Attorney determines the elements of the offense do not fit the charges filed.

Section 3. Standards of Eligibility.

A. Intervention shall be appropriate where:

1. The offender is 18 years of age or older at the time the alleged offense was committed.

2. There is a likelihood justice will be served if the offender is placed in an intervention program.

3. It is determined the needs of the State and of the offender can be met through the Pre-Trial intervention Program.

4. The offender poses no substantial threat to the safety and well-being of the community.

5. It appears the offender is not likely to be involved in further criminal activity.

6. The offender will likely respond to rehabilitative treatment.

B. The District Attorney may waive any of the foregoing where justice or special circumstances dictate.

Section 4. Processing Information.

A. Prior to being admitted to the Pre-Trial Intervention Program or as a part of the District Attorney's evaluation process an applicant may be required by the District Attorney to furnish information concerning the offender's past criminal record, educational and work record, family history, medical or psychiatric treatment or care received, psychological test taken and other information of any type or nature which the District Attorney feels

has a bearing on the decision as to whether or not the offender should be admitted to the Pre-Trial Intervention Program.

B. The District Attorney may further require the offender to submit to any type of test or evaluation process or interview as he deems appropriate in evaluating the offender for admittance into the Pre-Trial Intervention Program. The costs of any such test or evaluation shall be paid by the offender or as otherwise agreed to or provided for by this act.

Section 5. Recommendation of Victim and Law Enforcement Agency.

A. Prior to being admitted to the Pre-Trial Intervention Program on a felony offense the victim, if any, and the law enforcement officer in charge of the investigation, if any, shall be asked to comment in writing as to whether or not the offender should be allowed to enter the Pre-Trial Intervention Program and the District Attorney shall consider their recommendations, if any, in making his decision.

b. The victim and law enforcement officers need not make a recommendation if they choose not to do so.

Section 6. Agreement Required of Offender in Program.

A. An offender who enters an intervention program shall:

1. Waive, in writing, and contingent upon his successful completion of the program his or her right to a speedy trial;

2. Agree, in writing to the tolling, while in the program, of periods of limitations established by statute or rules of court;

3. Agree, in writing, to the conditions of the Intervention Program established by the District Attorney;

4. In the event there is a victim of the crime, agree in writing to a restitution agreement within a specified period of time and in an amount to be determined by the District Attorney taking into account all circumstances of the offender and victim.

B. Pre-Trial Intervention records or records related to Pre-Trial Intervention admission shall not be admissible in subsequent proceedings, criminal or civil and communications between Pre-Trial Intervention counselors and defendants shall be privileged unless a court of competent jurisdiction determines there is a compelling public interest that such communications be revealed.

Section 7. Time for Application.

A. An offender must make application to the Pre-Trial Intervention Program no later than 45 days after service of the

warrant or within 21 days following appointment of counsel for the charge for which the offender applies or at his first court appearance.

B. In the discretion of the District Attorney, the time provision of this section may be waived.

Section 8. Fees for Application and Acceptance.

A. An applicant to the Pre-Trial Intervention Program on each charge shall pay a non-refundable application fee of \$150.00 for charged offenses classified by Title 13A-5-3-(C)(1)(2)(3)(d) of the Code of Alabama 1975, as amended. An application fee of \$250.00 shall be charged pursuant to this Section for offenses classified in 13A-5-3-1(2)(3). In addition to the application fee the offender shall pay an administration and supervision fee not to exceed \$25.00 per week during the time that the offender is in the Pre-Trial Intervention Program. Fees may be waived by the District Attorney or schedule of payments for any of the above mentioned fees may be established by the District Attorney. The fees heretofore set out in this Section are maximum and may be in the discretion of the District Attorney reduced because of circumstances relating to any specific offender and the financial conditions of the applicant.

Section 9. Drug and Alcohol Services.

A. The District Attorney and the offender may enter into an agreement as a part of the offender's Pre-Trial Intervention Program that the offender be admitted to a drug or alcohol program on an in-patient or out-patient basis or receive other treatment alternatives for substance abuse. The District Attorney may require the offender to submit to periodic or random drug testing as a part of his Pre-Trial Intervention Program and other terms and conditions related to substance abuse as the District Attorney may direct. The offender shall pay the costs of all such services unless otherwise agreed to.

Section 10. Individual Agreement Between Offender and District Attorney.

A. In any case in which an offender is admitted into a Pre-Trial Intervention Program there shall be a written agreement between the District Attorney and the offender. The agreement shall include the terms of the Intervention Program, the length of the program and the period of time after which the District Attorney will dispose of the offender's charges in a non-criminal manner or what charges the defendant will plead guilty to and the sentence the offender will receive. In all cases where as part of the Pre-Trial Intervention Program the offender agrees to plead guilty to a particular offense and receive a specific sentence the same

shall be approved by an appropriate Circuit or District Judge of the 14th Judicial Circuit prior to admission to the Pre-Trial Intervention Program.

B. As a condition of being admitted to the Pre-Trial Intervention Program the District Attorney may require the offender to agree to any of the following terms or conditions:

1. Attend school, including, but not limited to high school, college, job training school, trade school, or adult basic education courses.
2. Learn to read and write.
3. Financially support offender's children or pay child support.
4. Refrain from the use of alcohol or drugs or frequenting places where the same are sold or used.
5. Refrain from contact with certain persons or premises.
6. Maintain or seek employment.
7. Attend counseling (individual, group, or family).
8. Pay restitution to victim if any due.
9. Pay court cost and fines.
10. Pay supervision fees and application fees pursuant to this act.
11. Observe curfews or home detention or travel constraints as set out in the offender's agreement.
12. Enter into an agreement with the District Attorney to have restitution, court cost, fines, fees, child support, withheld from offender's wages or salary and applied to the same.

The offender shall be subject to such other terms or conditions as the District Attorney and the offender may agree to in the offender's written agreement, it being the purpose of this act to allow the District Attorney broad discretion in designing a program specifically for each offender and offender's circumstances.

Section 11. Program Administration.

All fees paid by offenders as heretofore set out shall be paid to the District Attorney of the 14th Judicial Circuit. The District Attorney shall establish a Pre-Trial Intervention Fund. The District Attorney shall use the said fund to pay costs associated with the administration of the Pre-Trial Intervention Program or for other law enforcement purposes. Costs associated with program administration shall include but shall not be limited to

salaries, rent, vehicles, telephones, postage, office supplies and equipment, training and travel services, service contracts and professional services. The District Attorney in his discretion may pay for services or programs for an offender while offender is in the Pre-Trial Intervention Program if special circumstances and justice dictate.

Section 12. Violation of Condition.

A. In the event the offender violates the conditions of the Pre-Trial Intervention Program agreed to in writing by the offender and the District Attorney, the District Attorney may terminate the offender's participation in the program and pursue criminal charges against the offender. The offender shall be given written notice of the District Attorney's intent to terminate him or her from the Pre-Trial Intervention Program.

B. The District Attorney in his discretion may waive a violation for good cause shown why the offender should stay in the Pre-Trial Intervention Program.

Section 13. The provisions of this act are severable and if any part of this act should be declared unconstitutional or unenforceable the remaining provisions of this act shall remain intact.

Section 14. The provisions of this act shall become effective upon this act being signed by the Governor or this act otherwise becoming law.

Approved May 17, 1993

Time: 11:37 A.M.

Act No. 93-661

H. 882 – Reps. Bryant, Cosby, Thomas

AN ACT

Relating to Dallas County; providing for certain additional issuance fees on motor vehicle license tags and plates and distributing the proceeds from the additional fees.

Be It Enacted by the Legislature of Alabama:

Section 1. Pursuant to the authority granted in Amendment No. 138 to the Constitution of Alabama of 1901, in addition to all other issuance fees currently provided by law, the county officer charged with the duty and responsibility of issuing motor vehicle license tags and plates in Dallas County shall assess and collect an

issuance fee of seventy-five cents (\$.75) on each tag or plate issued. The proceeds from the first twenty-five cents (\$.25) of the additional issuance fee shall be credited to the Dallas County Legislative Delegation Office established by Act No. 92-496. The proceeds from the remainder of the issuance fee shall be deposited in the county general fund.

Section 2. This act shall become effective on the first day of the first month following its passage and approval by the Governor or its otherwise becoming a law.

Approved May 17, 1993

Time: 11:39 A.M.

Act No. 93-662

H. 912 – Rep. Letson

AN ACT

Relating to Lawrence County; to alter, rearrange and extend the boundary lines and corporate limits of the Town of Hillsboro to cause areas west of and contiguous to existing corporate limits to be included within the Town.

Be It Enacted by the Legislature of Alabama:

Section 1. The boundary lines and corporate limits of the Town of Hillsboro in Lawrence County are hereby altered, rearranged and extended so as to include within the corporate limits of the Town the contiguously located tract of land described as follows:

Begin 425 feet North of and 100 feet West of the SE corner of the SW 1/4 of the SE 1/4 of Section 6, Township 5 South, Range 6 West, at a point on the existing circumference of the corporate limits of the Town of Hillsboro, thence West 50 feet, South 210 feet, West 460 feet, North 220 feet, West 720 feet, South 470 feet, East 630 feet, South 660 feet, East 720 feet, North 340 feet, East 620 feet to a point on the existing circumference of the corporate limits of the Town of Hillsboro in the NE 1/4 of the NE 1/4, Section 7, Township 5 South, Range 6 West.

Section 2. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved May 17, 1993

Time: 11:50 A.M.

Act No. 93-663

H. 192 – Reps. Harper, Carothers, White,
Holley, Mathis, Williams,
Johnson, Laird, Hammett,
Venable, Warren, Cullins,
Newton (C), Willis, McDowell,
Haynes

AN ACT

To provide an appropriation for the support and maintenance of the Emergency Medical Services Programs for the fiscal year ending September 30, 1994 and to create the Alabama Emergency Medical Services Education Commission to distribute funds appropriated by the Legislature.

Be It Enacted by the Legislature of Alabama:

Section 1. There is hereby appropriated for the fiscal year ending September 30, 1994, the sum of \$3,980,831 out of the funds accruing to the Alabama Special Educational Trust Fund after the effective date of this act to be used for the support and maintenance of the Emergency Medical Services Programs as follows:

(1) Alabama Department of Public Health for funding the Birmingham Regional Emergency Medical Services System, \$320,512.

(2) Alabama Department of Public Health for funding East Alabama Emergency Medical Services, Inc., \$320,512.

(3) Alabama Department of Public Health for funding North Alabama Emergency Medical Services, Inc., \$320,511.

(4) Alabama Department of Public Health for funding Southeast Alabama Emergency Medical Services, Inc., \$320,511.

(5) Alabama Department of Public Health for funding Southwest Alabama Emergency Medical Services, Inc., \$320,511.

(6) Alabama Department of Public Health for funding West Alabama Emergency Medical Services, Inc., \$320,511.

(7) Alabama Department of Public Health for funding regional equipment and training grant funds for emergency medical services, \$279,594.

(8) Alabama Department of Public Health for improvement in emergency medical services through services offered at the state level, \$230,839.

Section 2. The amounts appropriated under subsections (1) through (6) of Section 1 shall be used to fund contracted services to permit operation and maintenance of the agencies named and for

the purchase of instructional supplies and new instructional equipment by those agencies. The amount appropriated under subsection (7) shall be disbursed by contract with the agencies named for placement in segregated accounts to be used exclusively for grants for reimbursement of the cost of equipment and tuition and expenses for training by emergency medical services providers. Funds shall be allocated to the agencies named based upon the following formula: 50 percent to be divided equally among the agencies named; 25 percent to be apportioned among the agencies based upon the number of square miles in the geographic area represented by each agency; and 25 percent to be apportioned among the agencies based upon the population of the area represented by each agency according to the latest federal census. Any funds not contracted for and expended for the purposes of this act shall revert to the appropriate fund at the end of the fiscal year.

Section 3. (a) There is hereby created the Alabama Emergency Medical Services Education Commission. Membership on the Alabama Emergency Medical Services Education Commission shall be as follows:

(1) The State Health Officer, or his or her designee, who shall serve as chair.

(2) The State Superintendent of Education, or his or her designee.

(3) Three members appointed by the Governor.

(4) Two members appointed by the Lieutenant Governor or the President of the Senate.

(5) Two members appointed by the Speaker of the House of Representatives.

(b) Members of the Commission shall not receive compensation for their services, but shall be allowed travel and per diem expenses at the same rate paid to state employees, to be paid from funds of the Alabama Department of Public Health.

(c) The Commission shall meet at the times and places as it shall establish, or at the call of the chair after not less than five working days notice to all members. In no event shall the Commission meet less frequently than twice each fiscal year.

(d) The Commission shall expend the funds that are appropriated for such purpose by the Legislature by making grants to state junior colleges, state technical colleges, and other public institutions of higher learning for the purposes of providing emergency medical services education. For the fiscal year ending September 30, 1994, the Commission shall expend the sum of \$1,547,330 for

purposes of this section. To be eligible for a grant from the Commission, an institution shall be certified by the Alabama Department of Public Health as having an emergency medical services primary education program whose graduates are eligible to be examined for state licensure as emergency medical technicians at the EMT-Basic, EMT-Intermediate, or EMT-Paramedic level or a combination thereof.

(e) Grants from the Commission shall contain such conditions that in the view of the Commission are necessary to assure that grant funds are expended for emergency medical services education purposes. The Commission may require audited financial statements as a condition of grant acceptance.

Section 4. This act shall become effective on October 1, 1993, after its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved May 17, 1993

Time: 11:51 A.M.

Act No. 93-664

H. 727 – Reps. Hill, Knight (A)

AN ACT

Relating to Shelby County; to establish a civil service system and provide for classified services; to establish a personnel board and provide for the appointment, term, and powers of board members; to provide for the establishment of a register and filling of vacancies; to exempt the chief clerks in the offices of the judge of probate, the tax collector, and the tax assessor from the civil service system and the classified services; and to provide penalties.

Be It Enacted by the Legislature of Alabama:

Section 1. This act shall apply only to Shelby County and shall be known as “The Shelby County, Alabama, Civil Service Act.”

Section 2. The words, terms, and phrases defined below shall have the following meanings:

(1) **APPOINTING AUTHORITY.** A person, officer, board, or other body whose jurisdiction or powers are confined wholly or primarily within the territorial limits of the county and who or which possess final power to discharge, appoint, or promote persons to services, jobs, offices, or positions, the compensation of which is paid in whole or in part from public funds of Shelby County. The

county commission, tax assessor, tax collector, judge of probate, county manager, and the county department heads are appointing authorities within the meaning of this definition.

(2) **BOARD.** The Personnel Board of Shelby County created by this act.

(3) **CERTIFICATION.** A submission of names and eligibles from a reemployment list, a promotion list, or an eligibility register to an appointing authority for the purposes of filling a position in the classified service.

(4) **CLASS.** A group of positions in the classified service sufficiently similar in respect to the duties, responsibilities, and authority that the same descriptive title may be used to identify all positions allocated to the class, that the same requirements as to education, experience, capacity, knowledge, proficiency, ability, and other qualifications should be required of the incumbents and that the same schedule of compensation can be made to apply with equity.

(5) **CLASSIFICATION PAY PLAN.** The pay plan which outlines the appropriate pay grade assignments for each position that was assigned to the appropriate grade in accordance with its duties, responsibilities, requirements, and authority. The pay plan shall have set pay grades, ranges, and steps for all full-time county positions including classified and unclassified service positions.

(6) **CLASSIFIED SERVICE.** A category of service that provides permanent status to an individual after satisfactorily completing a probationary period. A regular employee shall be terminated through the means of disciplinary actions or reduction in force.

(7) **COMMISSION.** Those individuals elected to official position of county commissioner.

(8) **COUNTY.** Shelby County.

(9) **COUNTY ATTORNEY.** An attorney appointed and approved by the commission.

(10) **COUNTY MANAGER.** The individual employed by the commission to administer and perform the administrative duties of the commission. The county manager shall be an unclassified position and shall serve at the pleasure of the commission. The county manager shall be afforded a written notice of employment termination signed by a majority of the commission at least 90 days prior to the effective termination date. The commission shall notify the director of the action in order to insure administration of existing benefits.

(11) **DEPARTMENT HEAD.** The top management individual in each of the county's operating divisions, including, but not limited to, the county engineer, county clerk, data processing manager, personnel director, director of inspection services, planning director, EMA director, environmental manager. Each department head is considered an appointing authority in his or her respective divisions. Department heads are members of the classified service as defined in this act and are responsible to and supervised by the county manager. The county commission and county manager shall be responsible for the selection of department heads excluding the juvenile court services director. The chief probation officer-juvenile court services director is considered a department head in his or her respective division and is a member of the unclassified service. The chief probation officer-juvenile court services director is appointed and serves at the pleasure of the district court judge-juvenile court. The county manager shall have authority to communicate any performance activities of the chief probation officer-juvenile court services director to the district court judge-juvenile court.

(12) **DIRECTOR.** The personnel director employed by the county through the county manager to perform the duties of the civil service system. The director shall be experienced in the field of personnel administration, shall implement the merit system in accordance with this act, and shall carry out the policies established by the board and the county commission.

(13) **ELIGIBLE.** A person whose name is on a reemployment list, a promotion list, or an eligibility register.

(14) **ELIGIBILITY REGISTER.** A record containing the names of those persons who have successfully completed prescribed interviews, tests, and who possess the required educational background and the verification of previous employment experiences in order of their respective qualifications from the highest to the lowest and who are considered qualified for appointment to positions in the class for which the evaluations were held.

(15) **EMPLOYEE or APPOINTEE.** A person in the classified service herein set up and appointed by an appointing authority, unless herein specifically exempted.

(16) **FULL-TIME POSITION.** A position in the classified or unclassified service which is recognized as requiring 32 to 40 hours of work per week for a continuous period of more than 12 months. Regular employees in the classified service occupy full-time position. A position in the unclassified service which is established and regularly requires the full services of an individual for a period of 32 to 40 hours per week for a continuous period of greater than 12 months shall be recognized as a full-time position.

(17) **PART-TIME and TEMPORARY POSITION.** Any position in the classified service which requires or is likely to require the services of an incumbent during certain parts of a year. Part-time positions shall be positions with a maximum scheduled work week of 32 hours or less, unless increased due to extreme need requirements with preapproval from the director. Temporary positions shall be positions established for a maximum term of 12 consecutive months and may be scheduled to work up to 40 hours or more per work week. Part-time and temporary positions are not permanent and are not subject to a probationary period. Employees occupying part-time or temporary positions are employed-at-will, and are subject to dismissal with or without cause and without appeal.

(18) **PAY GRADE.** The specific pay range as set forth in the pay plan.

(19) **PAY STEP.** The specification pay rate within a pay range as set forth in the pay plan.

(20) **PERMANENT POSITION.** Any position in the classified service which has required or which is likely to require the full-time services of an incumbent without interruption for a period of more than 12 months.

(21) **PERSONNEL BOARD.** The Personnel Board of Shelby County created by this act.

(22) **POLICY, RULE, or REGULATION.** Policies, rules, or regulations adopted by the board in accordance with this act which are considered necessary to carry out the provisions of this act and to develop a comprehensive civil service system, so long as the policies, rules, and regulations adopted by the board do not modify or change the intent of this act.

(23) **POSITION.** Any job or set of duties in the classified service requiring the full-time or part-time employment of one person in the performance and exercise thereof.

(24) **PROBATIONARY EMPLOYEE.** An employee appointed to a permanent position in the classified service from a reemployment list and eligibility register who has not completed his or her six-month probationary period. The traditional probationary employee with regular employee status shall serve a 30-day probationary period. No employee shall have appeal rights until obtaining designation as a regular employee.

(25) **PROBATIONARY PERIOD.** A period of six continuous months of employment applicable to a permanent position in the classified service. The probationary period is recognized as the employed-at-will period, whereas the employee does not have appeal rights. The promotional probationary period for promoted

regular status employees in the classified service shall be 30 calendar days without any interruptions in service.

(26) **PROMOTION.** An advancement from one class to another related occupational class with increased duties or responsibilities, and for which a higher rate of pay is prescribed.

(27) **PUBLIC HEARINGS.** A meeting of the board, open to the public, whereat any citizen, taxpayer, or party at interest may appear and be heard.

(28) **PUBLIC NOTICE.** A written notice placed upon the bulletin board maintained at or near the entrance to the county courthouse in a place accessible to the public during business hours.

(29) **PUBLIC RECORDS.** A record which the public shall have the right to inspect in a reasonable manner during the ordinary business hours.

(30) **QUALIFICATIONS.** The minimum experience, educational, physical, and personal requirements determining the eligibility of an applicant for examination and consideration.

(31) **REEMPLOYMENT LIST.** A list of regular employees of the classified service who have been laid off due to a reduction in force within the past two years.

(32) **REGULAR EMPLOYEE.** An employee who was appointed under the provisions of this act to a permanent position and who has completed his or her probationary period.

(33) **SPECIFICATIONS.** A formal statement descriptive of a position and shall contain:

a. The title and class.

b. A description of the duties and responsibilities thereof.

c. The minimum qualifications required of applicants as to education, experience, physical ability, and other attributes.

(34) **TESTS.** Written or oral examinations or other methods established as herein provided to determine the merit, efficiency, and general fitness of applicants for positions.

(35) **TITLE.** The term used to designate all employment by class and grade and shall be descriptive of the duties of the position.

(36) **UNCLASSIFIED SERVICE.** A category of service that provides for employment-at-will for the employee, therefore, serving at the pleasure of the respective appointing authority and possessing no appeal rights. Employees occupying positions in the unclassified service are hereby employed at the will and job discretion of the

applicable appointing authority, therefore, never obtaining permanent or regular employment status.

Section 3. The purpose of this act is to provide for the orderly administration of county government and shall provide for the following:

(1) The preparation and maintenance of a position classification plan for all positions in the classified service, based upon a similarity of duties performed and responsibilities assumed, so that the same schedule of pay may be applied to all positions in the same class. Each position in the classified service shall be allocated to one of the classes in the plan. The full-time unclassified service positions in the county departments shall be included in the pay plan and shall be eligible for compensation and benefits as awarded to classified service positions.

The director shall have the authority to perform and facilitate the performance of classification studies to maintain an effective classification plan. The board is hereby responsible for facilitating a comprehensive classification plan review every five years. The review shall be performed at the expense of the county and shall consist of the grading and classification of all positions in the county. The periodic maintenance of the classification pay plan shall be performed by the director and approved by the board. The comprehensive classification plan review shall be subject to board and commission approval before becoming effective. The comprehensive classification plan review has to be either approved or denied in its entirety.

(2) A pay plan for all employees in the classified service. The plan shall be composed of salary grades and ranges of pay with minimum and maximum rates as may be deemed necessary for proper recruitment and retention of personnel. The pay plan shall be fully integrated with the classification plan.

(3) The open-competitive and promotional examinations to determine the relative fitness of individuals meeting announced requirements to perform the duties of the positions in the classified service. Such examinations shall be announced publicly and in advance of the date fixed for closing the filing of applications.

(4) The establishment of eligibility lists for appointment and promotion upon which lists shall appear the names of successful candidates in order of their relative performance in the respective evaluations. The duration of eligibility lists shall normally be for two years.

(5) A rejection of candidates who fail to meet announced job requirements or who are found lacking in conduct or character, or

who have attempted any deception or fraud with respect to an examination or candidacy for appointment, or for any other reason deemed just and applicable.

(6) A probationary period of six months before appointment is complete and regular status is conferred on the probationary employee in the classified service.

(7) For the establishment and operation of policies that do not discriminate on the basis of sex, age, race, creed, color, handicap, or national origin in recruiting, hiring, promoting, upgrading, training, job assignments, dismissal, or other disciplinary measures, compensation, or other terms and conditions of employment.

(8) The preparation and maintenance of records of performance of all employees in the classified service. Such records shall be considered: in counseling employees regarding work improvements; in determining salary increases and decreases provided in the pay plan; and as a factor in promotion, dismissal, suspension, demotion, layoff, transfers, and reinstatement.

(9) The development and operation of programs to improve the effectiveness and morale of employees in the public service, including training, safety, health, counseling, and employee relations.

(10) The imposition of disciplinary measures of dismissal, demotion, and suspension without pay; and for provisions for appeal from such actions.

(11) The establishment of procedures governing layoff, reinstatement, disciplinary actions, and grievances.

(12) The hours of work and holidays; vacation, sick, and leave, with or without pay.

(13) The examination and certification of public payrolls by the county manager and personnel director.

(14) The exemptions from the coverage.

(15) The prohibition of political activity on the part of any employee in the employment of the county.

(16) Other rules and regulations not inconsistent with the provisions of this act, which shall aid in its effectiveness.

Section 4. (a) There is created the Personnel Board of Shelby County.

(b) (1) The personnel board shall be comprised as follows:

a. One member elected by the regular employees in the classified service of the county. Initial appointment for two years.

b. One board member shall be appointed by the majority appointee of the judge of probate, tax assessor, and tax collector. Initial appointment for three years.

c. One member appointed by the County Commission of Shelby County. Initial appointment for four years.

(2) No member of the board, at the time of appointment nor for three years prior to appointment, shall have held a classified or unclassified service position, public office nor have been a candidate for public office. No member of the board can be a relative of a candidate for public office, an elected official, or a classified or unclassified service employee of the county. Vacancies during the unexpired terms shall be filled for the remainder of the term and shall be filled in the same manner as originally filled. Upon the expiration of a term, future appointments shall serve a term of four years.

(3) Each member of the board shall receive from the General Fund of Shelby County thirty dollars (\$30) for each meeting of the board they attend.

(4) The board shall annually elect a chair from one of its members who will preside at all board meetings for a period of one year. The board shall adopt reasonable rules regulating its procedures. All board members, including the chair, shall vote on all matters before the board.

(5) Members of the board shall take the constitutional oath of office which shall be filed in the office of the judge of probate.

(6) Any member of the board who becomes a candidate for or is appointed to or elected to a public office vacates his or her office as a member of the board.

(7) Any member may be replaced during his or her term of appointment should the member fail to attend the established board meetings.

(8) Each member shall be a resident and registered voter of Shelby County and maintain the residency and registration.

(9) Members of the board can serve a maximum of two terms.

(c) The personnel board shall do all of the following:

(1) Meet in regular session at least quarterly and at other times as necessary to transact the business of the board.

(2) Promulgate such policies, rules, and regulations as are necessary to carry out the provisions of this act and to develop a comprehensive civil service system.

(3) Review, approve, disapprove, or modify administrative actions and conduct of the personnel system through the director.

(4) Hear and render decisions relative to appeals from regular employees in the classified service concerning disciplinary actions of dismissal, demotion, and suspension without pay. As a result of these hearings, the board may support the appointing authority's action, modify the action, or overturn the action.

(5) The board shall have the power to administer oaths, take depositions, and issue a subpoena for the attendance of witnesses and production of papers necessary in connection with any hearing. The director shall perform and assist with the necessary activities in gathering information. The sheriff or some other law enforcement officer of the county shall serve all processes of the board. In case a person refuses to obey such subpoena, the board may invoke the aid of the Circuit Court of Shelby County. It shall be the prerogative of the board in legal matters, to be represented by either the county attorney or to employ independent counsel to represent it in the enforcement of this act. The employment of legal counsel requires the authorization by the commission.

(6) Conduct inquiry and investigation as to the force and effect of this act and the operation of the merit system program.

(7) Transact such other business within the purview of the board and within the intent of this act.

(8) Submit recommendations to the commission for cost-of-living adjustments to the pay plan. The director shall adjust all pay grades within the pay plan by the appropriate percentage or dollar amount. The commission shall perform its fiduciary responsibilities and powers over county revenue in the maintenance of the pay plan and benefits plans. The comprehensive classification plan review as required by this act shall be subject to the approval of the board and the commission.

Section 5. The county manager and county commission shall appoint a director of personnel. The director shall be experienced in the field of personnel administration and shall administer an efficient and economical merit system in accordance with the rules arising therefrom, and shall carry out the policies established by the personnel board. Any act of the director complained of shall be subject to review by the county manager and the personnel board. In addition to the duties and responsibilities set forth elsewhere in this act, the director shall:

(1) Serve as secretary to the board and shall be its executive officer.

(2) Appoint, reward, remove, or otherwise discipline in accordance with this act such number of subordinates as may be necessary to carry out an effective operation.

(3) Prepare for approval of the board such policies, rules, and regulations as are needed to carry out the provisions of this act, including, but not limited to, rules governing: examinations; recruitment; appointments; suspensions; dismissals; certifications; layoffs; sick, vacation, and other types of leave; resignations; reinstatements; promotions; demotions; transfers; salary; classification; and other rules as deemed necessary in the interest of a sound personnel and merit system.

(4) Determine the effectiveness of the system and compliance with this act by conduct of such studies and inquiries as deemed necessary, and to report such findings along with recommendations to the board for improvements. In connection with such investigations or inquiries, the director shall have the power to subpoena and require the attendance of witnesses, and the production of records, documents, and papers pertaining to the subject under consideration.

(5) Have the authority to study the organization and operation, manpower requirements of the departments, and to make recommendations for improvements to the county manager and the commission.

(6) Maintain an official roster of all positions and incumbents in the classified service wherein shall be recorded the various personnel transactions affecting the employee.

(7) Establish and administer, subject to approval by the board, plans for the classification of positions in the classified service.

(8) Promote and assist in the establishment of programs for general employee pension, welfare, health, and career development.

(9) Serve as the county's equal employment opportunity officer in receiving and reviewing discrimination claims from the public and county employment as related to the employment practices of county departments.

Section 6. At the time Shelby County becomes subject to the provisions of this act, all employees and appointees holding full-time positions in the classified service of the county shall be granted permanent status in the classified service and designation as a regular employee as herein defined. All employees employed in a position in the classified service that have not completed their probationary period shall be required to complete it before gaining the designation as regular employees as defined herein. The service shall be divided into two categories, as follows:

(1) The chief clerk in the office of the judge of probate and the offices of the tax assessor and tax collector shall be exempted from the civil service system and the classified services.

(2) A classified service comprised of all employees and appointees holding regular full-time permanent positions in the service of the county. Employees occupying these positions shall be deemed to be in the classified service unless specifically exempted from the service in accordance with this act.

(3) The unclassified service shall include:

a. All employees or appointees of a library board, the Shelby Council for Aging and Transportation, and Shelby Youth Services and Attention Home, Inc.

b. Officials elected by popular vote.

c. The county attorney.

d. Independent contractors to the commission.

e. The administrative staff of the commission:

1. The county manager.

2. Administrative assistants.

3. The commission clerk.

4. Employees occupying the positions of project director, secretary, computer operator, or any other positions of the Drug Task Force under the supervision of the Sheriff of Shelby County or an incorporated board.

f. Part-time members of boards.

g. Attorneys, physicians, surgeons, and dentists who, with permission of the appointing authority of a governing body, engage in outside similar employment.

h. The chief appraiser for the tax assessor. Any employees or appointees paid through the discretionary fund of the tax assessor.

i. Any employees or appointees paid through the discretionary fund of the tax collector and who received more than 50 percent of their total county compensation from such fund.

j. The license office manager and secretary to the judge of probate. Any employees or appointees paid through the Index Fund (a discretionary fund of the judge of probate) and who received more than 50 percent of their total county compensation from such fund.

k. The chief probation officer-juvenile court service director appointed by the district court judge that is designated as the judge of the juvenile court. The county manager may provide performance information to the district court judge concerning the chief probation officer-juvenile court services director.

l. Employees receiving compensation and funding through grants from federal, state, or local authorities.

m. Coroner and deputy coroner and any other employees under the supervision of the coroner.

n. Employees occupying positions recognized as either part-time, temporary, students and interns, and emergency.

(4) All unclassified service positions in the following departments shall be governed by the leave policies and compensation schedule as outlined within this act: county commission, probate, tax assessment, tax collection. Full-time employees in the county commission, probate, tax assessment, and tax collection unclassified service shall receive benefits eligibility as with the classified service. No board or appointing authority shall be authorized to designate an individual in the unclassified service as a regular employee in the service of the county.

Section 7. (a) Public records shall be those records as defined in Section 41-13-1, Code of Alabama 1975. Such records may be reviewed in a manner prescribed by the director, taking into account confidentiality, convenience, and related factors.

(b) Minutes of board meetings, the classification and pay plans, payroll, actions of dismissal, suspensions, and the rules shall be considered public records. The director shall prepare and display a copy within the commission minute book of a departmental listing of employees by position that includes the employees' hourly or bi-weekly pay rate as of January of each year. Other records of the department shall be held confidential by reason of public policy including test scores, eligibility lists, medical records, performance evaluations, disciplinary forms, and related materials. The confidentiality provisions shall not limit the duty of the county to produce such records and information in response to a lawful subpoena or other appropriate legal actions.

(c) The director shall maintain a personnel file for each employee containing the information commonly recognized as required, appropriate, and pertinent to support employee personnel actions. Each personnel file will be the official source of information for responding to authorized requests from inside and outside the county for information about present and former employees. Personnel files shall be accessible to the respective department heads, supervisors, and employees upon reasonable request.

(1) The material that is authorized to be included in the personnel file is restricted to those items for which authenticity has been confirmed through established procedures, such as official

county personnel forms, signed statements from the employee's supervisors and appointing authorities, and employee references. The personnel file will exclude materials that are not considered appropriate for use in making judgments in personnel actions.

(2) Subject to the above restrictions, the personnel file shall include the following information:

a. Qualification Information.

1. Available data evidencing employee's knowledge, skills, abilities, experience, training, and character;

2. A completed application form for county employment;

3. Supplementary qualification facts provided by the employee, the appointing authority, department heads, or supervising personnel;

4. Test results, if applicable;

5. Interview reports;

6. Reference reports;

7. Performance appraisals;

8. Employee job descriptions; and

9. Medical examination reports.

b. Personal History Information.

1. Such personal information as age, next of kin, address, etc. as needed for processing required personnel actions;

2. Records of benefit enrollments.

c. Other Information.

1. Personnel action forms and correspondence with or about the employee pertaining to appointment, status change, leave of absence, separation, and reappointment;

2. Letters of commendation or disciplinary action.

(3) An employee's personnel file shall be maintained in an inactive status for seven years after the employee leaves county service. An employee shall have reasonable access to his or her personnel file upon written request to the director.

(4) An appointing authority shall have access to the personnel file of employees under its jurisdiction.

(d) The director shall also maintain the other personnel records that are necessary for the proper administration of the county

personnel system. The board shall approve and make available such forms, blanks, and other record-keeping materials, as needed for the maintenance of required personnel records and reports.

Section 8. CLASSIFICATION AND PAY PLAN.

(a) **PURPOSE OF THE CLASSIFICATION PLAN.** The classification plan provides a complete inventory of all positions in the classified service and an accurate description and specifications for each class of work. The plan standardizes titles, each of which is indicative of a definite range of duties and responsibilities and has the same meaning throughout the classified service.

(b) **USES OF THE CLASSIFICATION PLAN.** The classification plan shall be used:

(1) As a guide in recruiting and examining candidates for employment.

(2) In determining lines of promotion and in developing employee training programs.

(3) In determining, in conjunction with wage surveys and job analysis, salaries to be paid for various types of work.

(4) In determining personnel service items in departmental budgets.

(5) In providing uniform job terminology understandable by all officials, employees, and the general public.

(c) **PREPARATION OF THE CLASSIFICATION PLAN.** The personnel director shall prepare or direct the preparation of the classification plan. Upon completion of the plan, the director shall submit to each appointing authority a copy of the tentative class specifications. Each department shall receive a list allocating employees to the appropriate positions. The appointing authority shall be responsible for notifying employees as to the allocation of their respective positions. A copy of the class specifications and individual allocation shall be made available to the employee or their representative on request.

(d) **ADOPTION OF THE CLASSIFICATION PLAN.** The personnel director shall submit the classification plan to the board for its approval and then to the county commission for final approval. The plan shall become effective upon the approval of the board and the commission. The personnel director shall be charged with the responsibility for maintaining the classification plan so that it will reflect the duties performed by each employee in the classified service and the position's pay grade allocation in the plan.

(e) **MAINTENANCE OF THE CLASSIFICATION PLAN.** It shall be the duty of the personnel director to:

(1) Recommend the establishment of new position classes and the deletion or revision of existing classes.

(2) Review the duties and responsibilities of each new position established, and with approval of the board, allocate the position to the appropriate position class. It shall be the responsibility of the appointing authority to submit to the director in writing a comprehensive job description describing in detail the duties of each new position established.

(3) Make periodic studies of the position in order to determine changes in duties and responsibilities and on the basis of findings recommend reallocation or reclassification of positions. Changes in duty assignments must be more than temporary in nature and the incumbent must be performing the duties for a sufficient duration to warrant an investigation.

(4) Direct the grading and classifying of all positions in the classified service at least once every five years.

(f) COMPOSITION OF THE PAY PLAN. The pay plan shall contain:

(1) A basic salary grade for each position class in the classification plan.

(2) A basic salary schedule containing the minimum rate, maximum rate, and the intermediate rate of pay for each salary grade; and a conversion of rates for basis of payment.

(g) ADOPTION OF THE PAY PLAN. The classification pay plan developed before or upon enactment of this act shall remain in place until the plan requires to be reviewed in compliance with the policies herein. The comprehensive pay plan shall be adopted by or before the beginning of the new fiscal year following enactment. The personnel director shall facilitate the performance of the comprehensive classification plan review at least once every five years.

(h) AMENDMENTS TO THE PAY PLAN. The pay plan shall be amended in the following manner:

(1) The county commission may raise or lower the basic salary schedules in the pay plan by applying the same percentage increase or decrease to the entire schedule within the pay plan. The commission shall notify the board at least 30 days prior to the effective date of any increases or decreases to the salary schedules.

(2) The board and commission upon the recommendation of the director shall amend the pay plan when changes in responsibilities of work classes, availability of labor supply, prevailing rate of pay, or other pertinent economic factors warrant such action.

(3) The pay plan shall be amended when a new position is added to the classification plan. The director and the appropriate appointing authority shall develop the job description of the new position. The personnel director shall recommend to the board the appropriate grade assignment of the new position taking into account the compensable factors that are present in the position, prevailing labor market values, and the comparable pay for similar positions within the classification plan. The new position's pay plan assignment shall be communicated to the appropriate appointing authority and the county commission upon the board's approval. All new positions shall receive approval of the board and commission before becoming established and effective.

(i) **ADMINISTRATION OF THE PAY PLAN.** Each employee in the classified service shall be paid at one of the rates set forth in the pay plan for the classification in which he or she serves in accordance with these rules and the provisions for administering the pay plan. Each employee appointed to part-time, temporary, student and intern, and emergency positions shall be paid in accordance to a pay scale or rate approved by the board and commission.

(1) New appointments to the classified service shall be made at one of the beginning rates (step 1, 2, 3, or 4) of the salary range for the classification to which the appointment is made. A new appointment at step 2, 3, or 4 shall be based on outstanding education or experience qualifications of the candidate and be approved by the director.

(2) The board may, upon recommendation of the personnel director, authorize appointment above step 4 salary rate when:

a. There is a lack of available candidates for recruitment at step 4 salary rate.

b. A former, satisfactory employee is reemployed in the classification formerly held.

c. The appointing authority recommends appointment above step 4 salary rate, based on outstanding education or experience qualifications of the candidate and the position to be filled is that of a department head, deputy department head, or high level professional or administrative position.

(j) **SALARY ADVANCEMENT, "Merit Increase."** Salary advancement within the established salary ranges shall be based on meritorious performance on the job and shall be in accordance with the provisions of the pay plan. An efficiency rating reflecting satisfactory performance shall be required for advancement. An employee shall advance from one step to another upon completion

of one year of satisfactory service in a position. The employee shall receive a satisfactory efficiency rating (performance evaluation) from his or her appropriate appointing authority or supervisor before being eligible for a merit increase. The board shall provide the necessary evaluation forms to the appointing authorities for completion in the evaluation of the employees. Appointing authorities are required to complete the merit evaluation forms on the appropriate employees' anniversary date in a position. Employees shall receive their evaluation through individual meetings with their supervisors or appointing authorities. An employee with continued satisfactory service in a position shall be eligible for future merit increases until such time as the maximum rate for the range is reached. Merit evaluations shall be performed on a 12-month cycle in a position. The guidelines for establishing the merit evaluation dates upon enactment of this act shall be established by the board and approved by the commission. The funding and budgeting of merit increases shall be subject to the commission's approval on a fiscal year basis. The commission shall officially notify all county departments of merit increase funding by or before October 1 of each fiscal year. An employee who receives either a sustained formal disciplinary action during the 12-month merit evaluation period or a written warning within the last six months of the 12-month merit evaluation period shall not be eligible for a merit increase on the applicable anniversary date.

(k) **SALARY RATE IN PROMOTION, TRANSFER, OR DEMOTION.** In the event a classified employee is promoted, transferred, or demoted, his or her rate of pay for the new position shall be determined as follows:

(1) **Promotion.** Upon promotion, the incumbent's regular base pay shall determine the new rate in the promotional class. The promoted employee will be placed at the lowest step within a higher pay grade for the new position that provides at least a five percent increase. All promoted employees will receive at least a five percent increase, even if such increase places the employee's pay above the maximum step for the promotional position's pay grade.

(2) **Transfer.** When an employee is transferred from one department to another, his or her step in the pay range remains unchanged. Transfer shall mean the movement of an employee (who has not retired, resigned, or whose employment has not been otherwise terminated) within a class or between two separate classes for which the employee is qualified and the class's maximum pay steps are equal. All transfers shall be approved by the appointing authorities involved and the director.

(3) **Demotion.** When an employee is demoted, his or her compensation shall be reduced to the salary prescribed for the class

and position grade to which he or she was demoted. The particular step shall be determined by his or her period of employment in the classified service. In no event shall his or her salary exceed the maximum rate of the new classification.

(4) Reinstatement from Employment List. A regular employee who is rehired through the reemployment eligibility list to a position in the same grade and range of the employee's exiting position shall have his or her compensation set at the same step. A regular employee who is rehired to a position in a lower pay grade and range than the employee's exiting position shall be governed by the guidelines outlined under Administration of the Pay Plan.

(1) CONFLICT OF PAY SUPERVISOR/SUBORDINATE. In the event that the rate of pay of an immediate classified service supervisor shall be less or equal to the base rate of pay of permanent subordinates directly supervised in lower or related classes, the rate may be advanced in steps by the personnel director. In no event shall the new rate be more than one pay step above the highest rate currently received by a direct subordinate in a lower class.

(m) TEMPORARY ASSIGNMENT. A classified service employee may be placed on temporary assignment by his or her appointing authority for the performance of job duties not associated with his or her present classification. This temporary assignment may be for training purposes, accomplishing special projects, or filling temporary vacancies. A temporary assignment can be maintained up to 180 continuous calendar days during a 12-month period. The classified service employee's pay shall be adjusted beginning the third consecutive scheduled work day of the temporary assignment. The pay will be adjusted to the pay grade of the temporary job assignment for the remainder of the assignment. The employee shall receive at least a five percent increase for the temporary assignment and shall be placed on a full step rate. In order for an employee to be eligible for a pay adjustment when the temporary assignment is for training purposes, the employee shall perform the new job duties for 50 percent or more of the time per work day.

(n) LONGEVITY PAY. (1) The payment of longevity pay is subject to the approval of the commission on a fiscal year basis. All full-time classified and unclassified service employees who meet the longevity pay guidelines shall be eligible for the pay. Upon the approval of longevity pay, the longevity pay check shall be paid on the first scheduled work day in December.

(2) Guidelines. Longevity pay shall be based on the following guidelines:

a. The total amount of accumulated full-time classified or unclassified employment service with Shelby County; and

b. The employee shall have been actively employed full-time for the time period of 12 months from October 1 through September 30 for the fiscal year preceding the applicable payment date in December; the use of accrued annual, sick, and medical leave without pay leave shall be recognized as actively employed and full-time service; and

c. The employee shall have at least five years full-time service on or before September 30 of that given year; and

d. The employee's full-time service cannot include any service as an employee in a temporary, part-time, or seasonal position, or employment through programs such as "CETA." The only service eligible for longevity pay credit is full-time regular employment that enables an individual to be eligible for participation in all benefit plans for county employees.

If an eligible employee meets all the above guidelines and works at least until October 1, and terminated employment, except through formal disciplinary action, he or she will still be paid longevity pay in December. Any employee that is terminated from employment through formal disciplinary actions shall not receive longevity pay. The following service and pay scale shall govern the longevity pay policy:

FULL-TIME EMPLOYMENT	LONGEVITY PAY
5 YEARS TO 10 YEARS	\$300
10 YEARS TO 15 YEARS	\$400
15 YEARS TO 20 YEARS	\$500
20 YEARS TO 25 YEARS	\$600
25 YEARS OR MORE	\$700

Each appointing authority is responsible for the approval of their applicable employee listing before the issuance of the longevity pay checks. Any incorrect issuance of the longevity pay is subject to a complete refund.

(o) **INSURANCE PROGRAM.** The commission shall provide an employee insurance program for all eligible full-time classified and unclassified service employees. The program shall consist of health, dental, life, and disability insurance coverages. The insurance program shall be outlined in a summary of benefits packet prepared and distributed by the director. The premium share ratios for the insurance programs shall be determined by the commission. The premium sharing ratios will provide the information of the dollar amounts to be paid by the county and the employees. Participating employees who are placed in a medical leave without

pay that exceeds 10 working days in a month shall be responsible for paying the county the applicable premiums that would have been deducted from their pay check.

(p) **WORKERS' COMPENSATION.** (1) Shelby County shall provide its employees with workers' compensation coverage. Benefits and eligibility for each employee shall be determined in accordance with criteria specified in the Code of Alabama, 1975, Section 25-5-1, et seq.

(2) All employees shall report any and all injuries which occur from accidents arising out of and in the course of employment with the county. All job-related injuries shall be immediately reported during the work shift by the employee to his or her supervisor. The immediate supervisor shall communicate the injury to the appropriate department head. Failure to report an injury may result in the loss or delay of receipt of benefits.

Failure to report an injury or the performance of unsafe acts may result in disciplinary actions. No employee shall receive workers' compensation pay benefits while receiving any other compensation from the county. An employee may use accrued leave for the initial three-day waiting period for workers' compensation pay benefits. All accrued leave that the employee has accrued will be frozen at the levels held at the time the employee is placed on workers' compensation leave. If an employee does not return to work following a workers' compensation leave, the employee will be paid for the accrued leave in accordance with the leave policy.

(3) Immediate supervisors and department heads shall be responsible for thoroughly following the workers' compensation law. All procedures developed and implemented by the county through the director shall be processed in a timely manner.

(4) The county shall promote the return of an employee to work as soon as approval is granted by the designated workers' compensation doctor. The performance of restricted duties shall be granted the employee who was injured on the job, so long as the employee's performance and duties do not place an undue hardship on the operation of the department.

Section 9. RECRUITMENT AND EXAMINATIONS. The director shall be responsible for recruiting qualified individuals to fill vacancies in positions in the classified service and covered by the Civil Service Act. The following shall serve as guidelines for the recruitment, examination, and selection of classified service employees:

(1) **RECRUITMENT.** Individuals shall be recruited from a geographic area as wide as necessary to assure obtaining well-qualified

candidates for the various types of positions. Employment shall not necessarily be limited to residents of Shelby County.

(2) **ANNOUNCEMENTS.** The personnel director shall prepare recruiting notices to publicize vacancies and to provide candidates for the classified service positions. Announcements shall set forth time, place, requirements, tests, and periods of application. The minimum period of time between public notice and closing dates for applications shall be five calendar days and maximum periods of time shall be at the discretion of the personnel director taking into consideration the number of positions to be filled, availability of applicants, and the geographical area of recruitment. Vacancies in classified service positions that are above the lowest grade level that are not filled by transfers or reemployment may be filled by the promotion of qualified classified service employees. The director shall post the classified service position announcements that are above the lowest pay grade level for applications from within the classified service for seven calendar days. Classified service employees shall be eligible for promotional consideration. Upon the discretion of the director and the applicable department head, based on the number of available candidates from within the classified service, the director may recruit additional candidates from outside the classified service. The director may not post a position announcement if there is a standing eligibility list open with eligible candidates for certification.

(3) **ACCEPTANCE OF APPLICATIONS.** Applicants for employment or promotion shall apply by completing the required application forms. Completed applications will be accepted only during the time period stated on the announcement. The director may extend the application period beyond the stated closing date by announcing the new time period. The accepting of applications shall not extend beyond the date and time the test begins. The director may also refuse to test an applicant when he or she had previously taken the same or a similar test within the nine months prior to the next scheduled test date.

(4) **REFERENCE.** As part of the preemployment procedure, former supervisors, employers, police, and FBI files, plus references provided by the candidates, shall be checked as a precaution against obtaining undesirable employees. The reference checks may or may not be completed prior to an offer of employment, and the information shall be handled as privileged information available to appointing authorities in considering applicants.

(5) **DISQUALIFICATION.** The director may remove from further consideration at any time the application of an applicant who:

- a. Does not possess the minimum qualifications;

b. Has established an unsatisfactory employment or personnel record as evidenced by reference check of such a nature as to demonstrate unsuitability for employment;

c. Has made false statement of any material fact of practiced deception or fraud in this application, examination, or medical history;

d. Is afflicted with any mental, physical, or mentally disqualifying disease or defect that would prevent satisfactory performance of his or her duties;

e. Is believed to be addicted to or is a habitual user of drugs or intoxicants;

f. Has been convicted of crimes other than minor traffic violations;

g. Has been guilty of infamous or disgraceful conduct;

h. Has an unsatisfactory driving record as evidenced by a pattern, frequency, or severity of traffic violations;

i. Has refused or failed to report for any interview after certification to an appointing authority;

j. Has failed to report for duty at the time and place designated after appointment;

k. Has failed to respond to any official notice or phone call from the director or appointing authority;

l. Has failed to notify the personnel board or postal authorities of a change in address;

m. Has been certified and rejected for three or more times; or

n. For any other good cause not inconsistent with the intent of this act.

(6) EXAMINATIONS. All appointments in the classified service, either through the open competitive or promotional, shall be made upon the basis of merit, efficiency, and fitness of applicants for positions. All announcements and examinations shall be prepared and weighted under the supervision of the director. Examination shall be thorough and practical and shall relate to those matters which fairly test the relative capacity and fitness of those examined to discharge the duties of the classification.

(7) TYPES OF EXAMINATIONS. Examinations may be open competitive or promotional. Open competitive is open to the public for application. Promotional is open to the classified service employees.

a. **Open Competitive.** Any examination in which competition is open to all applicants meeting the announced requirements for admission to the examination.

b. **Promotional.** Any examination in which competition is limited to present employees. Such examinations shall customarily be restricted to employees serving in lower, related classifications and employed in the classified service. A promotional examination may include employees in all jurisdictions.

The director shall in each case determine whether an open competitive or promotional examination will serve the best interests of the service in attracting well qualified candidates. The board shall approve the use of written, mental, physical, and medical examinations.

(8) **CONTENTS OF EXAMINATIONS.** Examinations shall consist of any, all, or part of the following examinations, sections, parts, or tests. No questions in any examinations, form, or application or any other proceedings shall be framed to elicit the political or religious beliefs of applicants, or shall in any way discriminate for or against an applicant because of his or her sex, nationality, race, or color.

a. **Written Tests.** This part when required shall include a written demonstration designed to show the familiarity of competitors with the knowledge involved in the class of positions to which they seek appointment, their ability in the use of English, the range of their general information, or their general educational attainments.

b. **Mental Test.** This part when required shall include any test or tests, whether written or oral, to determine mental alertness, general capacity of applicants to adjust their thinking to new problems, or to ascertain special aptitudes, character, or personality traits.

c. **Performance Tests.** This part when required shall include such tests of performance as would determine the ability and manual skills of competitors to perform the work involved.

d. **Physical Test.** This part when required shall consist of tests of physical condition, muscular strength, coordination, agility, and physical fitness of applicants with regard to performance of the applicable job tasks of the position for which he or she is applying. This may be given a weight in examination or may be used in excluding from further examinations where a written test is unnecessary or impractical.

e. **Training and Experience.** This part when required shall be marked from the statements of the education and experience

contained in the application form or from such supplemental data as may be required. Results of the reference checks may be part of the evaluation of training and experience.

f. **Medical Examinations.** This examination determines that applicants are physically capable of performing efficiently the essential duties of a position and are free from such defects or diseases that would constitute employment hazards to themselves, or endanger the safety, health, and welfare of fellow employees or others. Medical examinations shall be performed by the commission's designated physician or physicians in accordance with the board's adopted medical standards. The board shall determine if all classified service positions require a medical examination. Medical re-evaluation on any employee may be ordered by the appointing authority or director if at any time the employee's performance of duties becomes deficient, or if his or her health or physical condition constitutes employment hazards to himself or herself or endangers the safety, health, or welfare of fellow employees or others.

g. **Waiver of Physical or Medical Conditions.** The director may, with the approval of the board, in cases of physical handicaps or medical conditions, permit the employment of handicapped eligible candidates who may not meet all of the physical or medical requirements of the classifications. Providing that the eligible candidate is physically and medically capable of performing all of the duties of the specific position under consideration without risk to the health, safety, and welfare of others or himself or herself, and that the physical or medical conditions are not progressively deteriorating conditions.

(9) **RATING EXAMINATIONS.** Sound measurement techniques and procedures shall be used in rating the results of tests and determining the relative candidates. In all examinations the minimum rating standards for each test, or parts or sections, shall be established under the supervision of the director. Candidates may be required to attain at least a minimum rating on each test in order to receive a passing grade or to be rated on the remaining parts of the examination or test. No applicant shall be placed upon the employment register whose final earned average on a written examination is less than 70, with the final evaluation thoroughly reviewing each part of the examination.

(10) **NOTIFICATION OF WRITTEN EXAMINATION RESULTS.** Each person who takes an examination shall be notified by mail of his or her passing or failing grade.

(11) **WRITTEN EXAMINATION PAPERS.** Each person who takes a written examination shall be entitled to inspect his or her

examination score with the appropriate scoring key for 14 calendar days after the notices of results have been mailed. Test questions are confidential and not subject to inspection by the applicants. All examination papers may be destroyed upon the expiration of the eligibility register and exam papers of failing applicants may be discarded 30 days after the examination.

(12) **IDENTIFICATION OF TEST PAPERS.** Each entrant to an examination shall be assigned a number to be used as the sole identification on his or her test papers. Any test papers not bearing the identification number or bearing the name of the applicant or other identifying marks, except the assigned number, may be rejected and the candidate so notified.

(13) **FRAUD.** If an applicant during an examination is found to be using, without permission, any extraneous information such as other candidates' paper, memoranda, crib notes, pamphlets, or books of any kind, his or her test papers shall be taken and the director shall have them graded with a zero and note on the test papers the reason for such marking. Such applicants shall be barred from taking any future examinations. No person shall willfully or corruptly make a false mark, grade, estimate, or report on an examination with respect to the proper standing of any person examined; or willfully or corruptly make any false representation concerning any person examined; or furnish to anyone special or secret information for the purpose of improving or injuring the prospects or changes of the appointment, employment, or promotion of any person examined or to be examined.

Section 10. GRIEVANCE. (a) The most effective accomplishment of the various departments requires prompt consideration and equitable adjustments of employee grievances. All parties desire to adjust grievances informally with both supervisors and employees exerting every effort to resolve problems as they arise. It is recognized that there will be some grievances that can be resolved only after a formal appeal and review.

(b) A grievance is a wrong, real or fancied, considered by an employee as grounds for complaint. Matters dealing with classification, compensation, examination, discipline, and related actions specifically set forth, shall not be considered under grievance procedures of this act. Any questions as to what constitutes a grievance, or what should be processed, shall be determined by the director, subject to the review of the board.

(c) Any employee may register a grievance. In the presentation of grievances, employees shall be free from restraint, interference, discrimination, or reprisal. All adjustments of grievances processed shall be retroactive to the time the grievance is first

submitted in writing by the aggrieved employee. The aggrieved employee may be represented by counsel or other person of his or her choosing.

(1) Step I. a. The grievance shall be submitted in writing to the immediate supervisor within five days of the occurrence of the incident. All complaints shall cite the reasons and nature of the complaint and shall be signed by the employee.

b. The immediate supervisor shall reply in writing within three days giving an answer to the complaint. A copy of the answer shall be furnished to the employee and the personnel director.

(2) Step II. If unresolved in five days, the written grievance and supervisor's answer shall be submitted to the department head. The department head shall, within five days, reply in writing to all parties concerned and forward a copy of the reply to the director.

(3) Step III. If the employee is not satisfied with the appointing authority's response, the employee may file an appeal to a grievance panel, composed as follows:

a. One member appointed by the grievant. One member appointed by the appointing authority. The third member shall be a mutually agreed upon person selected by the first two members.

b. If no mutual party can be agreed upon by the grievant and appointing authority, within a period of 10 days, the director shall designate the third member.

c. The grievance committee as constituted shall review the findings of all parties concerned and may obtain additional information as it deems necessary. The committee shall render a decision concerning the unresolved grievance within 30 days after receipt of the grievance. The decision shall be binding on all concerned parties.

d. The director shall provide the minimal administration services necessary and shall exercise his or her authority to request the production of records of appearance of witnesses as may be required.

e. Nothing in this act shall limit the appointing authority's right to manage its affairs and governmental operations or infringe on its right as responsibility to appropriate funds and to fix budgets for the proper expenditure of public funds.

Section 11. ELIGIBILITY LISTS, CERTIFICATION, AND APPOINTMENTS. (a) **ELIGIBILITY LISTS.** The director shall establish and maintain such eligibility or employment registers for the various classes of positions as he or she deems necessary to

meet the needs of the service. Names of eligibles shall be placed on lists in order of their examination.

(1) **Open Competitive Lists.** Such lists shall contain the names of those applicants attaining examination and placement on the entrance or open competitive examination. Duration of such lists shall be for a period of two years from the date of approval, unless extended by the director.

(2) **Promotional Lists.** Such lists shall contain the names of employees attaining qualifying grades on promotional examinations. Duration of such lists shall be for two years from the date of approval, unless the list is depleted or extended by action of the director.

(3) **Layoff Lists.** This eligibility list contains the names of former regular employees who were separated from various classes because of a lack of either work or funds, or whose positions were abolished as a result of departmental reorganization or for some other just reason. The names of such former employees shall be placed on the list in the order of full-time classified service seniority. Duration of such lists shall be for a period of two years. Employees on probationary status shall have their names reinstated at the top of the appropriate eligibility list. When there are two or more employees who are equal in seniority, they shall be duly considered by the appointing authority. The method defining layoff procedure shall be determined by the director in accordance with county policy.

(b) **CONSOLIDATION OF NAMES ON ELIGIBILITY LISTS.** The director may order a new recruitment when:

(1) Four or fewer names remain on an eligibility list, or

(2) An existing list will provide inadequate eligibles to meet a specific employment need.

Existing eligibles will be consolidated with the eligibles from the new recruitment. Eligibles on the existing list will be notified that another recruitment will be conducted. Eligibles on the existing list shall update their respective applications. Current eligibles which do not reexamine will remain, in score order, on the newly consolidated eligibility list. Current eligibles that are reexamined will be placed on the consolidated eligibility list based upon their scores from the new test. Candidates that pass open recruitment will be determined by integrating their scores with the scores of eligibles currently on the list.

(c) **REMOVAL OF NAMES FROM ELIGIBILITY LISTS.** The personnel board through the director will remove eligibles from eligibility lists:

(1) Upon employment, eligible names will be removed from the proper eligibility list.

(2) Upon disqualification, the eligible names will be removed from the appropriate list (includes removal due to non-responsiveness, unable to contact by telephone).

(3) Upon the expiration date of the eligibility list, the names will be removed.

(d) REINSTATEMENT. Any former employee with permanent status who has been separated from the classified service in good standing may, within two years from the date of resignation or separation, apply to the director to have his or her name entered on the eligibility register for reemployment in such a position of the same class or grade as formerly held. Such request shall be made in writing to the director, who shall submit his or her recommendation to the board for final approval. Upon approval by the board, the name of the former employee shall be placed at the bottom of the appropriate promotional list within his or her former jurisdiction of the open competitive list, as the cause may be, for the duration of said list. A former employee appointed as a result of reinstatement shall re-enter at the beginning rate for the class, unless determined otherwise by the director through the application of policy, and shall serve a probationary period. In addition to the foregoing conditions, the applicant for reinstatement shall meet the physical standards and other requirements for the classification for which reinstatement is applied.

(e) CERTIFICATION. Based on the receipt of an authorized requisition from an appointing authority, the director shall certify the names of eligibles from the appropriate eligibility lists in the following priority and manner:

(1) First, the name of the ranking former employee of the classified service which meets all qualifications of the position vacancy from the layoff list, if any, shall be certified and appointed by the respective appointing authority.

(2) Second, the five names of the employees for a vacancy, if and only if they are the eligibles on the promotional list, shall be certified.

(3) Third, for each vacancy the five names of employees from the promotional list, if any, shall be used or the open competitive list. In the event that there are not five eligibles on the promotional list, the director may certify eligibles from the open competitive list in order to certify five.

(4) In general, all positions to be filled from promotional and open competitive lists shall be filled by the rule of five, with one additional name for each vacancy past the first vacancy. In the

event that a requested list of eligibles is for a department head position, the director shall certify to the appointing authority the names of seven eligibles. Upon the discretion and approval of the director and appointing authority, the appointing authority may receive less than five names from the promotional list if there are less than five eligible candidates available.

(f) **BYPASSING OF NAMES ON ELIGIBILITY LISTS.**

(1) An employee that has been suspended or demoted within a period of 12 calendar months shall not be certified. The employee will be removed from the promotional eligibility list.

(2) Before being certified, an eligible may waive certification rights for a period not to exceed six months. These waiver requests by eligibles shall be in writing stating the reasons for such request. All such requests shall be approved by the director and board, taking into consideration the needs of the service and interest of the employee. During the period for which waiver is granted, such eligibles will not be certified or considered for appointment.

(3) Any appointing authority may request waiver of certification of an employee from a promotional list and shall so state in writing the reasons to the employee with a copy to the director. The employee, to waive, shall reply to the appointing authority in writing with a copy to the director within three days.

Under no circumstances other than those cited above, or those regarding disqualification, and regarding removal from the list, shall any eligible be bypassed for certification.

(g) **SUPPLEMENTAL CERTIFICATIONS.** The director may certify the following additional eligibles: One for each eligible who after certification, either declines appointment at the time of interview or offer of employment, or who is subsequently disqualified.

(h) **APPOINTMENTS.** Vacancies and new positions created in the classified service shall be filled by reinstatement (layoff list), transfer, promotion, original appointment, or demotion.

The director shall provide a certification list after receiving a written request to fill a vacancy from an appointing authority. The request shall provide, at a minimum, a statement of the duties that the position performs and any additional information, if known about the position.

The appointing authority may make an appointment from the list, request disqualification of applicants for cause, or request replacement names for applicants that decline interviews or offers of employment. The director shall establish a reasonable time for such requests to be processed, after the director will issue a final certification list.

The appointing authority has 14 calendar days from issuance to make an appointment or provide the director with written notification that the requisition has been withdrawn.

(i) **TYPES OF APPOINTMENTS.** Appointments to the classified service shall be one of the following types:

(1) **Probational Appointment.** Appointment to a full-time position made from a certified eligibility list shall be a probationary appointment subject to the completion of a satisfactory probationary period. The probationary period shall be regarded as an integral part of the examination process, shall be utilized to evaluate the employee's performance on the job, and shall also be utilized for dismissing any employee who does not meet the required standards of performance. The duration of such probational period shall be for six months from the date of appointment with no interruptions in service, unless under the guidelines for the promotional probationer who has regular employee status.

a. **Separation of Probational Employees.** An employee in probationary status may be discharged without the right of appeal to the board.

b. **Promotional Probationer.** A promotional probationer who has regular status in the county service who shall serve a 30-day probationary period when promoted. A promotional probationer with regular status may be demoted for unsatisfactory service and returned to the position held prior to promotion during the promotional probationary period. The position vacated through a promotion of a regular status classified service employee shall not be permanently filled during the 30-day promotional probationary period. The appointing authority may process formal disciplinary actions during the promotional probationary period concerning a regular employee in the classified service. A promotional probationer that has not gained regular employee status in the classified service shall serve the remaining period of his or her six-month probationary period, but in no event shall serve less than a 30-day promotional probationary period and be subject to dismissal without any rights of appeal to the board and shall be recognized as employed-at-will during the six-month probationary period.

(2) **PERMANENT APPOINTMENT.** Employment of an eligible from an eligibility list, in a full-time position in the classified service after the satisfactory completion of a probationary period, shall be considered a permanent appointment.

(3) **OTHER TYPES OF APPOINTMENTS.** To fill positions of a part-time, temporary, student, or intern nature, the following appointments shall be made. Such appointments shall confer no rights of status, appeals, or related rights.

a. **Temporary Appointment.** These appointments may be granted for work which is due to a fluctuation in work load, due to employees being on a leave of absence or work seasonal in nature. No such appointment shall extend beyond 12 months or the work season in question. All candidates for appointment shall meet the requirements set by the director.

b. **Part-time.** These appointments may be granted for work which requires the service of an employee for less than the number of hours of a full-time or typical work week. Candidates for appointment shall meet the requirements set by the director.

c. **Students and Interns.** Student appointments have the purpose of affording students of public administration, and other professional areas, an opportunity to gain actual work experience in the public service. Such appointments are viewed as intermittent employment for a definite period of time; not to exceed six months of full-time work in any 12-month period. Candidates for appointment shall meet the requirements set by the director.

d. **Emergency Appointments.** An emergency, as used herein, means an unforeseen condition which is likely to cause loss of life or loss or damage to property, the cessation of service or serious inconvenience to the public. Upon receipt of request from an appointing authority citing such emergency conditions, the director may authorize an emergency appointment not to exceed 30 days. The manner of appointment and rate of compensation shall be set by the director.

e. **Unclassified Service Appointment.** Appointments of individuals to full-time, part-time, or temporary positions in the unclassified service shall be granted to individuals which meet the requirements of the position established by the appointing authority and shall serve at the pleasure of the appointing authority and not retain permanent status as an employee. The compensation for unclassified service positions shall be governed by the pay plan and the director. All definitions and guidelines stated within the policies and procedures shall apply to the positions recognized as part-time or temporary.

(j) **REDUCTION IN FORCE.** In the event that it becomes necessary because of lack of work, lack of funds, or when an appointing authority determines that a particular position or number of positions are no longer needed, the following procedure shall govern the layoff:

(1) The reason for the layoff shall be reported in writing by the appointing authority to the director and shall stipulate the number and classifications affected.

(2) The appointing authority shall determine in consultation with the director the organizational units to be affected by the layoff.

(3) If the reduction is departmental, then the layoff shall be made by laying off the employee in the position classification to be affected by the layoff who are temporary, seasonal, part-time, and probationary, if any. From that point, layoff shall be of regular employees in the classification position on the basis of their relative continuous classified service employment seniority. In the event there are two or more employees who would be affected by the layoff, and would have equal seniority, the employee who scored lowest on the merit evaluation or probationary evaluation (if employed less than one year) last regularly filed with the director, shall be laid off first.

(4) When an employee is laid off in a department which has other classifications or grades lower than the classification or grade from which he or she is laid off, he or she shall have the option of working in any other lower classification or grade in the same department or others, provided there are vacancies and he or she is qualified to perform the duties of such lower classification or grade.

(5) A person laid off from a classification or grade shall have the right, so long as he or she is in the service or on the layoff list, to return to the position from which he or she is laid off, in the event such position is refilled.

(6) The duties performed by the employee or employees so laid off may be assigned to any other employee or employees in the department or office who, in the opinion of the director of personnel, are qualified to perform such duties regardless of the specific classification or grade to which such employees are allocated.

(7) All regular employees to be laid off through a reduction in force action shall be given a minimum of 14 calendar days notice.

(8) Regular employees who are laid off will be placed on the reemployment list in order of their seniority. Such former regular employees will have recall rights to positions in the classified, part-time, and temporary service for which they qualify for two years from their date of separation.

(k) **DISCIPLINARY ACTIONS.** All regular employees in the classified service shall be disciplined in accordance with the following disciplinary actions. All appointing authorities shall comply with the disciplinary actions and appeals process. The employment of every regular employee shall be conditioned on the satisfactory conduct and performance of the employee. The employee shall perform all assigned duties and responsibilities under the direction of their immediate supervisor and appointing authority.

Every employee serving in a probationary period or temporary, part-time, student and intern, and emergency appointments shall

be discharged at-will by their respective appointing authorities without rights of appeal to the board.

All regular employees governed by these disciplinary actions are subject to demotion, dismissal, or suspension without pay by their respective appointing authority. Disciplinary actions shall be for cause. These disciplinary actions shall govern all terminations of employment except voluntary separations-resignations, terminations through reduction in force actions, retirements, disability terminations, unclassified service termination, and probationary employee dismissal termination.

(1) **DISCIPLINARY PROCESS.** Regular employees shall be disciplined for reasonable and just cause or violation of established policies and rules. The appropriate appointing authority or supervisor shall discipline a regular employee through the following means of a written warning. At indication of unacceptable performance or violation of rules and practices that do not warrant formal disciplinary action, the employee shall be issued a written warning. A written warning shall serve as an opportunity to the employee to take corrective actions and resolve any actions, problems, or matters. Written warnings shall clearly outline the reason for the written warning and that further warnings shall result in formal disciplinary action such as dismissal, demotion, or suspension. The written warning shall be served upon the employee as soon as possible following the action causing the warning, and shall be signed by the appointing authority, supervisor, and employee. The employee signature denotes receipt and does not necessarily denote agreement. Should the employee refuse to sign for receipt, the department head or supervisor shall note the refusal and the date and time the warning was given to the employee. The director and board shall provide the necessary forms to the appointing authorities. A copy of all written warnings and disciplinary actions will be maintained in the employee's personnel file.

(2) **CAUSES FOR DISCIPLINARY ACTIONS.** The following are the causes which shall be sufficient for disciplinary actions (this list is not to be interpreted as inclusive of all causes for action):

- a. Failure to give proper notice of an absence;
- b. Irregular attendance or absence without leave;
- c. Repeated tardiness (such as two late arrivals or late absentee notices within a three-month period);
- d. Interference with the work of others, including, but not limited to, offensive personal habits which interfere with efficient operations;

e. Excessive inefficiency including, but not limited to, waste, loafing, absence from assigned work area without permission, and defective workmanship;

f. Violation of reasonable, normal, or required safety practices, or the failure to report a work-related accident or injury;

g. Improper use or care of county property;

h. Political activities while on duty;

i. Misconduct, including, but not limited to, lack of cooperation, violation of civil or criminal law, and any disgraceful or infamous conduct which reflects unfavorably on the county as an employer;

j. Loss of a driver's license or driving privileges by due process of law, when the employee's job requires the regular operation of a motor vehicle in the performance of routine duties;

k. Dishonesty as related to an individual's job duties or profession, or the use of one's official position for personal advantage;

l. Dangerous horseplay on the job;

m. Violation of county regulations, department rules, lawful orders, or directions made or given by a supervisor;

n. Political activities that are violations of federal or state laws;

o. Sexual harassment and any other form of harassment;

p. Sleeping on the job;

q. Incompetency or repeated inefficiency in the performance of duties;

r. Abusive personal conduct or language toward the public or fellow employees, or abusive public criticism of a superior or other county official.

(3) FORMAL DISCIPLINARY ACTION. Dismissal, demotion, and suspension shall be in writing and shall set forth the cause of action; the date the dismissal, demotion, or suspension is to become effective; and any other information deemed appropriate by the department head or supervisor.

A copy of such notice shall be delivered to the director on the same day that the notice is served on the employee by the appropriate appointing authority or designee. The notice shall be signed in the same manner as discussed within the written warning guidelines. The formal disciplinary action notice shall denote the cause, action, and the effective date of formal disciplinary action.

The formal disciplinary action notification shall be made prior to or on the date such dismissal, demotion, or suspension is to be effective.

a. Dismissal is the termination of employment through disciplinary action.

b. Demotion is the disciplinary action of decreasing an employee's compensation through the demotion to a position in a lower class, position, and grade.

c. Suspension is the disciplinary action of suspending a regular employee, for improper behavior or actions, without pay for a period not to exceed 10 consecutive working days. A suspended employee shall not accrue any annual or sick leave time during any month in which he or she is serving a suspension of 10 days.

(4) CAUSES FOR FORMAL DISCIPLINARY ACTIONS. Dismissal, demotion, or suspension. The following are some examples of causes which shall be sufficient for formal disciplinary actions (this list shall not be interpreted as inclusive of all causes of action):

a. The receipt of two written warnings within a six-month period concerning the violation of rules and regulations, poor attendance, or performance;

b. Misconduct, including, but not limited to, conviction or criminal acts, disgraceful or infamous conduct which reflects unfavorably on the county as an employer;

c. Refusal of an employee to testify or answer any questions before the board pursuant to the board conducting hearings concerning the affairs of government or conduct of any officers or employees;

d. Possession or use of alcohol, unprescribed dangerous drugs, or similar intoxicants while on county property or on the job;

e. Operation of a county vehicle or county equipment while under the influence of intoxicants such as alcohol, unprescribed dangerous drugs, or prescribed drugs which cause an unsafe mental or physical state;

f. Loss of driver's license or driving privileges by due process of law, when the employee's job requires the regular operation of a motor vehicle in the performance of routine duties;

g. Use of a deadly weapon or force on county property;

h. Deliberate falsification of records or personal misrepresentations of fact to a supervisor, county official, the public, or the board;

i. Dishonesty as related to an individual's job duties or profession, or the use of one's official position for personal advantage;

j. Fighting, except in self-defense when the employee is a victim of an unwarranted assault;

k. Insubordination;

l. Conviction of a serious criminal offense or of a misdemeanor involving moral turpitude;

m. Theft, destruction, careless or negligent use, or willful damage of county property;

n. Violation of safety practices that endanger the life or health of the employee or others;

o. Refusal to be examined by a licensed physician when so directed for cause by the county;

p. Sexual harassment and any other form of harassment;

q. Incompetency or repeated inefficiency in the performance of duties;

r. Abusive personal conduct or language toward the public or fellow employees, or abusive public criticism of a superior or other county official;

s. Conduct or actions determined to be a conflict of interest as defined by state law;

t. Fraudulent misrepresentation in securing an appointment or promotion in the county services;

u. Repeated and willful violation of relatively minor offenses.

(5) **APPEALS PROCESS.** A regular employee shall have the right to appeal formal disciplinary actions of dismissal, demotion, or suspension. The employee desiring to appeal shall within five calendar days from the date of action file with the director, in duplicate, a written answer to the charges or cause of action and request a hearing. Such answer and appeal request shall contain:

a. The reason of dismissal, demotion, or suspension.

b. An admission of denial or guilt.

c. Reason, in detail, why the dismissal, demotion, or suspension should not have taken place.

(6) **BOARD ACTIONS.** Upon receipt of an appeal, the director shall notify the board chair; and the board shall call a hearing to order within 15 calendar days of the director's receipt of the appeal. The board shall order a hearing and review the appeal request. The hearing shall not be a public hearing, but all board decisions and actions shall be made public by the board immediately following the hearing.

(7) **HEARING.** The board shall either approve the actions of the appointing authority or rescind or modify the formal disciplinary actions of the appointing authority. The board through the hearing shall determine the merits of the actions and the appeal. The appealing employee shall be present to answer any questions from the board. The appointing authority and applicable supervisory staff shall be present to answer any questions the board may have concerning the appeal.

(8) **WITNESSES.** It shall be the duty of the director to subpoena witnesses other than character witnesses, for or against the employee upon written notice that their testimony is necessary. Witnesses are to be used to examine the meritorious facts of the causes of the formal disciplinary actions. Employees of the county shall be required to attend and testify without subpoena.

(9) **DECISIONS.** The board shall render its decision at the conclusion of the hearing by publicly approving the formal disciplinary actions of the appointing authority or rescinding or modifying the actions taken. The board shall issue a written determination notice to the appointing authority and appealing employee. The written notice shall be recorded in the appointing authority's departmental file and the appealing employee's personnel file in the director's department. The board actions shall be final and conclusive after such hearing. The final disciplinary actions may be reviewed through the circuit court through legal actions by either the appealing employee or appointing authority. The board actions shall not be changed other than through the circuit court decision. The written records shall be maintained by the director in the appropriate files.

The hearing shall not be public to protect the confidentiality of the appealing employee and the appointing authority for the protection of good name and character. All board actions shall be public and available for public inspection.

Section 12. DRUG-FREE WORKPLACE POLICY. (a) **PURPOSE.** Possession or use, or both, of illegal drugs and unauthorized possession or use, or both, of controlled substances by Shelby County employees on county premises and during a county work period has always been prohibited by Shelby County. The Shelby County Commission will comply with the United States Drug-Free Workplace Act of 1988, that requires federal contractors and grantees to take certain actions designed to provide a drug-free workplace. In compliance with federal law and the county commission's desire to safely provide quality services to the citizens of Shelby County, the county commission hereby establishes this Drug-Free Workplace Policy.

(b) **GENERAL POLICY.** Unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance by any employee of Shelby County during his or her work period, whether

on the premises of the county or at any other site where the employee is carrying out assigned duties, is prohibited.

(c) **NOTIFICATIONS.** All persons employed by the county shall be provided a copy of the policy and shall be advised that, as a condition of employment, they are required:

(1) To abide by this policy, and

(2) To notify their supervisors of any criminal drug statute conviction for a violation occurring in the county workplace within five days after such conviction.

A supervisor who receives such notice from any employee shall immediately forward a notice, through administrative channels, to the personnel director and county manager. Within 30 days of receiving notice of a conviction, the county will implement personnel actions as indicated in the "disciplinary actions" section of this act.

In cases in which a county employee is supported by a federal grant or contract, the county, upon receiving a notice of conviction covered by this policy, shall notify the granting agency of the conviction. The United States Office of Federal Contract Compliance and Procurement shall be contacted when required.

(d) **DISCIPLINARY ACTIONS.** Violations of this policy shall result in immediate suspension. Upon the findings of a disciplinary investigation, the employee shall be subject to disciplinary action, up to and including termination.

(e) **DRUG-FREE AWARENESS PROGRAM.** Shelby County shall inform employees of the dangers of drug abuse in the workplace, its drug-free workplace, including penalties for violations and any available drug counseling and rehabilitation assistance through the following activities:

(1) Publication of this policy at periodic intervals in each department;

(2) Inclusion of this policy in this act, the Personnel Policies and Procedures Manual and the Facts Sheet;

(3) Dissemination of information at employee orientation programs concerning the dangers of drug abuse, concerning this policy, and concerning drug assistance programs;

(4) Publication of information concerning the dangers of drug abuse in the workplace and concerning the availability of assistance programs.

Section 13. ATTENDANCE AND LEAVES. (a) **HOURS OF WORK.** The hours of work shall be set by the appointing authorities

with due regard to either the work requirements and projects, convenience of the public, or working hours customarily observed in the community. All county departments' standard office hours set to serve the public shall be approved by the commission. Appointing authorities shall schedule their departmental employees' hours in order to maximize public service. Appointing authorities have the authorization to schedule the hours worked by all county employees as long as the standard hours and public service are met.

Regular employees that are non-exempt according to the Fair Labor Standards Act shall typically work 32 to 40 hours each work week. All supervisors shall comply with the governmental regulations when scheduling employees' work, including work over 40 hours per work week. The work week for all other employees in the county employment, such as part-time and temporary service appointments, shall be established by the appointing authorities in compliance with this act.

(b) **TYPES OF LEAVE.** The following types of leave are officially established for regular employees in the classified service: holidays, annual leave, sick leave, bereavement leave, administrative leave, military leave, compensatory time leave, jury duty leave, and medical leave without pay. All regular employees in the classified service and full-time unclassified service employees shall be granted these leaves.

(c) **ATTENDANCE AND LEAVE REPORT.** The absence of an employee from duty shall be reported on the appropriate time sheets provided by the director and recorded by the appointing authority. All appointing authorities are liable for the accuracy and completeness of their departmental time sheets. Time sheets shall be signed prior to submittal to the director. The appointing authorities shall maintain the time cards or sign in/out sheets within each respective department. The director shall maintain attendance cards on all employees. If an employee is paid in excess of the amount due him or her, the appointing authority shall inform the employee of the payment error and receive reimbursement.

(d) **ABSENCE WITHOUT LEAVE.** An employee who is absent without leave or fails to comply with the leave policies shall be subject to the provisions of the disciplinary actions.

(e) **PART-TIME, TEMPORARY, STUDENT AND INTERNS, EMERGENCY EMPLOYEES.** Under no circumstances shall part-time, temporary, students and interns, and emergency employees be allowed to earn or use any leave time or be paid for any holidays.

(f) **NO ADVANCE LEAVE.** No leave shall be allowed in advance of eligibility and accrual. If an employee has insufficient leave to cover a period of absence, no allowance of leave shall be

posted and the employee's pay shall be reduced for the applicable lost time.

(g) OVERTIME. (1) Shelby County shall discourage any requirement that employees work beyond their normal work schedule. When it is necessary that employees work additional time, such time that qualifies as overtime shall be processed as either compensatory time off or paid as overtime on the next applicable pay check. When overtime pay is budgeted and available, the employee shall have the option of either compensatory time or overtime pay. The director and board shall determine which jobs are exempt according to the Fair Labor Standards Act (FLSA) coverage.

(2) Shelby County, employees of Shelby County, and representatives of employees of Shelby County shall agree on this overtime policy in compliance with all guidelines of the FLSA. This policy shall govern all present employees. All future employees shall accept and comply with this policy as a condition of employment with Shelby County.

(3) All employees who work in jobs which are not exempt from the provisions of the FLSA shall be provided compensatory time unless overtime pay is available and then the employee shall have the option of either being paid or receiving compensatory time.

a. All work in excess of the employee's regular total hours in the work week shall be approved in advance by the supervisor and department head.

b. The use of approved leave times such as sick, annual, bereavement, compensatory time, and holidays shall be considered as compensable working time during a scheduled work week. This compensable working time shall be recognized as time worked for computing compensatory time and overtime. All compensatory time earned shall be computed by multiplying all hours worked over the compensable working time within a work week by one and one-half.

c. All overtime pay shall be computed at one and one-half times the employee's regular rate of pay for all hours worked over the compensable working time within a work week.

d. All hours that an employee is scheduled to work during the work week shall be reported on the department's time and attendance reports in accordance with procedures established by the director and approved by the county manager.

e. An employee that is separated and who has accrued compensatory time off shall be paid at the regular rate of pay for accrued, unused compensatory time off.

f. Employees who earn compensatory time off shall be required to take the time off within six months of the end of the pay period in which it was earned. Employees shall be required to schedule use of compensatory time at least five working days prior to the use date. The use of compensatory time with less than five working days' notice may be granted by the department head for emergency situations, such as personal sickness or disability (doctor's statement may be required).

g. No eligible employees of any classification shall accrue more than 80 hours of compensatory time.

h. Full-time classified service employees who are non-exempt according to the FLSA that are required by their appointing authority to work on a scheduled holiday shall receive holiday compensation through the following means:

1. The regular employee shall be paid for the eight hours worked and receive compensatory time for the time worked (8 hours X 1.5 = 12 hours); or

2. When overtime pay funds are available, the regular employee shall be paid for the time worked by multiplying his or her hourly rate by 1.5 and multiplying the new rate by the hours worked. The employee shall also be granted eight hours of compensatory time in order for the employee to recognize the holiday on another date.

Regular employees that accrue compensatory time for working on a scheduled holiday shall be eligible to use the compensatory time as soon as possible with the approval of the appointing authority. The use of compensatory time enables the employee to recognize the holiday on another day.

(4) FLSA-exempt employees are not subject to the overtime policy.

(5) An employee that is promoted from a non-exempt position to an exempt position shall be granted compensatory time leave prior to starting the new position or be paid for the accrued compensatory time prior to beginning the new exempt position. If payment for compensatory time is to be provided, it shall be paid on the next applicable pay check and shall be calculated by using the pay rates applicable prior to the promotion.

(6) The board shall insure that the county complies with the Fair Labor Standards Act. All positions shall be recognized as either exempt, non-exempt, or non-covered under the Fair Labor Standards Act guidelines.

(h) **HOLIDAYS.** The commission shall fix by resolution the holidays that the full-time classified service and the full-time

unclassified service employees shall observe. The commission shall fix 11 days fiscally for the recognition of holidays. The board may increase the number of holidays with the authorization and approval of the commission. All full-time employees in the classified and unclassified service shall be granted holidays. An employee shall be in full-pay status on the day immediately preceding and following the scheduled holiday to receive the holiday pay. Appointing authorities shall minimize the scheduling of work on official holidays.

(1) If an employee is scheduled to work on a holiday, an exempt employee according to the Fair Labor Standards Act shall be granted another day off as soon as possible with supervisory approval.

(2) A non-exempt employee according to the Fair Labor Standards Act shall either:

a. Be paid for the eight hours worked and accrue compensatory time of hours worked X 1.5 (Ex: 8 hours worked X 1.5 = 12 hours of compensatory time); or

b. Be paid when funding permits by compensating the employee time-and-a-half for hours worked and receiving the holiday on another date.

(i) **ANNUAL LEAVE.** All employees appointed to full-time positions in the classified and unclassified service shall accrue annual leave with pay. All classified service employees accrue annual leave but cannot use the leave until the completion of their probationary period and recognition as regular employees.

The accrual of annual leave shall be based on the employees' continuous years of service in a full-time classified or unclassified service position. Employees shall not accrue annual leave during a month in which they are in a non-pay status for more than 10 working days. Annual leave accrued during a month can be used on the first scheduled work day of the next month.

Annual Leave Accrual	
Continuous Years of Service	Earned Leave Per Month
0-10	1 day (8 hours)
10-20	1.5 days (12 hours)
20+	2 days (16 hours)

(1) Employees shall not earn any annual leave days during a month in which they are in a non-pay status for more than 10 working days.

(2) Employees are required to take their annual leave in the year that it is earned. Up to 30 days of unused annual leave may

be accumulated and carried forward from one leave year to the next year, when approved by the appropriate appointing authority. Accumulated leave at the end of each leave year that is in excess of 30 days shall be forfeited by the employee.

(3) Upon separation from county service an individual shall be paid for up to 30 days of unused accrued annual leave, unless separated from county service through formal disciplinary actions. Such entitlement shall be calculated at the exiting rate of pay for the individual.

(4) Annual leave shall be approved at the discretion of each appointing authority taking into consideration the needs of the county, the department, and the employee. An appointing authority may require the employees in a department to take their leave at the same or different times as the department work load requires. Annual leave shall be approved in advance and shall not be subject to demand by the employee. Requests for annual leave shall be made as far in advance as possible of the time desired and shall be approved by the supervisor and department head. Should two or more employees request annual leave at the same time and for the same period, the employee with the most continuous years of service shall have priority.

(5) The decisions of the appointing authority and department head of the date of an employee's annual leave shall be final.

(6) When a county-authorized paid holiday occurs during an employee's annual leave, the day shall be credited as a paid holiday and not as an annual leave day.

(7) The annual leave year shall run from January through December of each year.

(8) Use of annual leave shall be charged in one-hour increments.

(j) **SICK LEAVE.** All full-time employees in the classified and unclassified service shall be allowed to earn and accrue sick leave. Sick leave is not a right for which employees make demand, but a privilege granted in accordance with prescribed rules and regulations outlined within this act or established by the board, or both.

(1) **ELIGIBILITY FOR SICK LEAVE.** All full-time employees in the classified and unclassified service shall accrue sick leave at the rate of one day (8 hours) per month of service. Employees shall not accrue any sick leave during a month in which they are in a non-pay status for more than 10 working days during a month.

(2) **ACCRUAL AND USE OF SICK LEAVE.** a. All eligible employees shall earn sick leave credit at the rate of one day of leave for each calendar month in which they qualify for leave for a

total of 12 days per year. Probationary status employees shall not be eligible to take paid sick leave days until the completion of their probationary period. Earned sick leave shall be posted to each employee's account at the end of the month in which the leave was earned. Eligible employees shall not earn any sick leave credit during any months in which they are in a non-pay status for more than 10 working days during the month.

b. Eligible employees may accumulate up to 150 days of sick leave.

c. Upon separation from county service due to retirement, an employee shall be paid for one-half of his or her accumulated sick leave, but in no event shall an employee be paid an amount in excess of 75 full days (150 accrued days) or receive creditable months of service with the retirement plan. Individuals who are separated in good standing and reemployed within two years of separation as classified employees shall have their previously accrued unused sick leave, not to exceed 150 days, added to their sick leave balance upon completion of any probationary period. Such employees that previously retired and are reemployed shall also reimburse the county for any payment for unused sick leave they received at the time of separation. Employees that resign or are otherwise terminated shall not be paid for accrued sick leave.

d. Sick leave with pay may be granted to eligible employees for any of the following reasons:

1. When an employee is unable to work due to personal illness, the waiting period for temporary total disability under workers' compensation coverage, injury incurred off duty, or when the employee's presence may endanger the health of fellow workers;

2. A medical doctor's appointment for treatment of an illness or personal injury to the employee;

3. Any impairment related to pregnancy, miscarriage, or actual confinement which prevents an employee from active employment. Pregnant employees who request time away from work for maternity and childbirth shall be equally treated with employees with other forms of disability or sickness;

4. In the event of illness of an immediate family member (spouse or child) which requires the services of the employee in the case of the family member, the appointing authority may authorize the use of a short-term sick leave to the employee, but under no circumstances shall the department head or director be required to approve such leave on demand. Short-term sick leave is defined as the approved use of up to 20 sick leave days per calendar year for the immediate care of the employee's spouse or child.

e. To be granted sick leave, an employee shall meet the following conditions:

1. The employee shall notify the supervisor by or before the start of his or her respective work shift or schedule. The employee is personally required to notify the appropriate supervisor. A spouse can notify the supervisor if the employee is hospitalized or incapacitated.

2. For a period of absence of three or more consecutive working days, the employee shall submit a doctor's statement which denotes the periods of absence and the doctor's clearance for regular and full duties.

All doctor's statements shall be signed by a licensed physician certifying that the employee has been incapacitated from work for a period of absence and when the employee will again be able to return to full active duty. When necessary, the appointing authority may require another physical examination. The physical shall be paid by the county and performed by a commission-designated doctor. A supervisor can request a doctor's statement from an employee at any time with the approval of the appointing authority.

f. If the employee does not have sufficient sick leave accrued to cover an absence due to sickness, an employee shall use any accrued annual leave and compensatory time for sickness as he or she would sick leave.

g. Any unjustified, fraudulent, or abusive claim for sick leave shall be charged as annual leave or compensatory time off, and in addition, shall be subject to disciplinary action.

h. When a paid holiday occurs during the period an employee is on sick leave, the employee shall receive regular holiday pay, and that day shall not be charged against the employee's sick leave.

i. Sick leave shall be charged in one-hour units.

j. Sick leave is not a benefit payable upon demand.

k. When an employee is absent due to an injury covered by workers' compensation, benefits shall be paid in accord with the workers' compensation law. The employee can only use sick leave for the waiting period for temporary total disability benefits.

l. Employees in the part-time or temporary service positions shall not earn sick leave.

m. Sick leave shall not be granted an employee whose absence from duty is a result of his or her engaging in employment outside the county service.

(k) **BEREAVEMENT LEAVE.** All full-time classified and unclassified service employees shall be granted three working days off when the employee experiences a death in his or her immediate family. The employee may use the three-working days off within 10 calendar days from the date of the death.

Immediate family means any of the following:

- (1) Spouse.
- (2) Children (natural, step-children).
- (3) Parents.
- (4) Step-parents.
- (5) Brother.
- (6) Sister.
- (7) Grandparents.
- (8) Grandchildren.
- (9) Parents-in-law.
- (10) Brother-in-law.
- (11) Sister-in-law.

(l) **ADMINISTRATIVE LEAVE.** All full-time classified and unclassified service employees are eligible for excused paid absences when attending required educational training programs or conferences and when weather conditions cause for the delayed opening or closure of offices. The delayed opening or closures of offices are for the safety of county employees and the public. The appointing authority shall determine the application of administrative leave for weather conditions. The use of administrative leave for educational training shall be approved by the appointing authority and commission.

(m) **PERSONAL LEAVE (DAY).** All full-time classified and unclassified service employees shall be granted one personal day each calendar year. Eligible employees in the Public Works Department/Highway Department shall use their personal day for the department's barbecue day. All eligible employees in other county departments shall use their personal day for any personal reasons. The personal leave day cannot be carried forward to the next calendar year.

(n) **MILITARY LEAVE.** (1) Authorization of military leave shall be in accord with Section 31-2-13, Code of Alabama 1975, as summarized below:

a. All county employees who are active members of the Alabama National Guard, Naval Militia, or the Alabama State

Guard organized in lieu of the national guard or of any other reserve component of the Armed Forces of the United States, are entitled to military leave of absence from their respective duties on all days that they are engaged in field or coast defense or other training, or on other service ordered under the provisions of the National Defense Act, or of the federal laws governing the United States Reserves, without loss of pay, time efficiency rating, annual or sick leave, or any other county-provided benefit.

b. No persons granted such leave of absence with pay shall be paid for more than 21 working days per calendar year.

c. Eligible employees are entitled, in addition to the foregoing, to be paid for no more than 21 working days at any one time while called to active duty by the Governor.

(2) An eligible employee who wishes to be granted military leave shall submit a copy of the Employee's Military Orders with a leave request through the appointing authority to the director. A request shall be submitted as soon as the employee becomes aware of the projected dates of service.

(3) County employees shall receive payment for 21 working days per calendar year while on active duty. An employee eligible to accrue annual and sick leave shall accrue leave for the applicable month in which he or she is in pay status and meet all leave of absence accrual requirements.

(4) Upon exhaustion of the military leave, a classified service employee shall be eligible to request Leave Without Pay-Active Military Duty.

(o) **MEDICAL LEAVE WITHOUT PAY.** A regular employee in the classified service and a full-time unclassified service employee may be granted leave without pay for a period not to exceed 90 calendar days for temporary personal sickness or disability injury which prevents the employee from safe performance of his or her respective duties. Each request for medical leave without pay shall be after the exhaustion of all eligible leave time and supported by a doctor's statement as outlined within the sick leave policy. Employees unable to return to their duties after the exhaustion of all applicable leave time shall be discharged from employment due to disability. The discharge of an employee for continued disability shall be supported by the applicable doctor's statement and calendar cards.

An eligible employee shall be released for active duties and working for at least 10 consecutive working days for the medical leave without pay period eligibility to begin. All eligible employees in medical leave without pay shall be covered under the applicable health insurance plans as long as they pay any premiums due for

active employees' coverage. All benefits shall cease at the conclusion of the medical leave without pay period unless election is made through COBRA coverage.

(p) **ACTIVE MILITARY DUTY WITHOUT PAY.** (1) Classified service employees who are voluntarily or involuntarily called to active duty with the Armed Forces of the United States shall be granted leave without pay for the duration of their obligated military duty. Upon release from military service, they shall be entitled to reemployment with the county in a comparable job that is no lower in grade or pay than that in which they were employed at the time of their call-up, provided:

a. They are physically and mentally suited to perform the required duties;

b. They make application for reemployment to the county within 90 days following honorable separation from the Armed Forces of the United States (10 days if rejected for service) or from hospitalization continuing after discharge for a period of not more than one year; and

c. No more than four consecutive years of active duty have passed.

In the event a vacancy does not exist, the employee shall be placed on the layoff list with priority right to reinstatement.

(2) Upon receipt of voluntary or involuntary active duty orders, a classified or unclassified service employee shall submit a request for a leave without pay for military duty through the appointing authority or designee to the director. Active military duty leave without pay shall begin after any and all requirements of the military leave policy are met for classified and unclassified service employees.

(3) At the exhaustion of the initial military leave period, a classified service employee may be granted the right to continue the eligible insurance benefits for a period not to exceed 90 days. A classified service employee who voluntarily enlisted with the Armed Forces of the United States may be granted the right to continue the eligible insurance benefits for a period not to exceed 90 days.

(q) **VETERANS REEMPLOYMENT RIGHTS.** (1) County regular classified and full-time unclassified service employees who enter, either voluntarily or involuntarily, active military duty in the Armed Forces of the United States shall be entitled upon release or discharge from service under honorable conditions to reemployment with the county and reinstatement of benefits unless the active duty period exceeds four years. This includes those employees who are

inducted or enlist into the Armed Forces, and members of a Reserve or National Guard component of the Armed Forces.

(2) Reemployment with the county after the release or discharge from active duty is permitted without loss of seniority, status, or pay if six conditions are satisfied:

a. The veteran shall have been in the employ of the county as a regular classified or full-time unclassified service employee. Those employees who were in a probationary status when they entered the Armed Forces shall complete their probationary period upon reemployment with the county in order to be reinstated. Part-time and temporary county employees would not qualify for reinstatement to the preservice position.

b. The employee shall have left for the purpose of going on active duty. This includes leaving to undergo military training or service, a preinduction physical, or other qualifying examination.

c. The veteran shall not have remained on active duty longer than four years unless the period beyond four years (up to an additional year) was at the request and for the convenience of the Federal Government. Example: If a county employee signs up for four years and reenlists for his or her own convenience, then the former county employee shall not qualify for reinstatement rights.

d. The veteran shall have been discharged or released from active duty under honorable conditions to qualify for reinstatement rights.

e. The veteran shall apply for reemployment with the county within 90 calendar days after the separation from active duty or from hospitalization continuing after such a release for not more than a year to qualify for reinstatement rights. **It is not necessary to return to work within the 90-day period only to make the application to the county for reinstatement rights.**

f. The veteran shall be qualified to perform the duties of the preservice position or a similar position sought in terms of physical and mental abilities, performance standards, etc. Those veterans who as a result of military service sustained, aggravated, or manifested a disability and are unable to perform duties of the position that would otherwise be due him or her, and is qualified to perform the duties of any other position in the county, shall be entitled to such other positions as will provide the applicant with like seniority, status, and pay or the nearest approximation. The disability shall arise during military training or service but need not be service connected or service aggravated.

(3) Rights of Returning County Employee Veteran. If the above six conditions are met, the county, within a reasonable

period of time after the application for reemployment is made, shall reinstate the qualified veteran to a position of like seniority, status, and pay. If the county's circumstances have changes as to make it impossible or unreasonable to reemploy the veteran, then the county may deny reinstatement. In the event a vacancy does not exist, the veteran shall be placed on the layoff list with priority right of reinstatement.

(4) Termination for Cause. The county may not terminate reinstated veterans within the first year of reinstated employment except for reasonable cause after fair notification of the grounds for discharge to the employee.

(5) Notification to the County of Military Orders. Upon receipt of written or oral active duty orders (including training and drills), an employee shall submit a request for a leave of absence for military service through the appointing authority to the director. The request for leave can be either oral or written.

Upon completion of duty, the reservist or National Guard member shall report back to work with the county through the appointing authority to the director on the first regularly scheduled shift after the completion of training. If the reservist or National Guard member is late in returning to work without adequate explanation, the employee shall be subject to the county's usual disciplinary actions for tardiness or unexcused absences.

(6) Miscellaneous. Eligible employees are not required to use their available annual or compensatory leave days to satisfy their military service obligations. The county is not required to compensate eligible employees for hours or days not worked or for accruing leave time for the period of their military obligations.

(r) JURY LEAVE. (1) Upon receiving a summons to report for jury duty, a classified and full-time unclassified service employee shall communicate the jury summons with a copy to his or her immediate supervisor and appointing authority. The employee shall thereupon be excused from work for the day or days required of him or her in serving as a juror in any court created by the Constitution of the United States or the State of Alabama.

(2) The excused absence provided with subdivision (1), above, all eligible employees shall be entitled to their usual compensation received from county employment and the expense allowances received through the courts.

(3) No eligible employee shall relinquish the accrual of leave time during his or her service on a jury.

(4) All employees are required to submit proof of jury service for the use of Jury Leave.

Section 14. TERMINATIONS. All terminations shall be governed by the applicable policies and procedures within this act. All terminations of employees from county employment shall be processed accordingly and shall be designated as one of the following types: resignation, reduction in force, disability, death, retirement, dismissal (formal disciplinary action), probationary termination, unclassified service termination, and part-time/temporary/seasonal/intern termination.

All employees shall be duly notified by their appointing authority or designee of their termination. Employees shall receive any compensation due on the regularly scheduled payroll cycle. All employees are responsible for returning any and all county properties and for the payment of any applicable monies due to the county before final compensation is to be paid by the county. Any payment due to the county shall be deducted from the employee's final compensation.

(1) **RESIGNATION.** a. An employee may voluntarily resign by submitting in writing to the appointing authority or immediate supervisor the effective date of resignation. Notification will be given as far in advance as possible; but no less than 14 calendar days prior to the effective date of the resignation. If the employee does not give at least 14 calendar days' notice, then the employee's resignation will be denoted as being "without notice."

b. Unauthorized and unjustifiable absence from work for a period of three working days will be considered as a voluntary resignation on the part of the employee.

c. An appointing authority will forward all notices of voluntary resignation to the director immediately upon receipt.

(2) **REDUCTION IN FORCE.** Employees may be terminated from employment through the application of the policies governing a reduction in force.

(3) **DISABILITY.** a. All employees may be separated for physical or mental disability when they cannot adequately perform their duties because of extended impairment.

b. A termination action may be initiated by either an employee or the county. The separation shall be supported by medical evidence provided by a licensed physician. The county may require a second opinion by a physician of its choice.

c. Separation action will be taken only after an employee's accrued leave with pay has been exhausted.

d. An employee who is eligible for retirement shall be entitled to retire and receive retirement payments pursuant to the terms of the county's retirement plan.

e. A disability separation may be either voluntary or involuntary depending upon whether the employee or the county initiates the action. A regular employee in the classified service may appeal an involuntary disability termination to the board for review.

(4) DEATH. a. Separation is effective as of the date of death.

b. All compensation due as of the date of death shall be paid to the estate of the employee. Any indebtedness to the county shall be withheld from the employee's final compensation.

c. Upon separation from county service due to death, the estate of the employee shall be paid for one-half of the employee's accumulated sick leave, but in no event will payment be made in excess of 75 full days.

d. Eligible dependents will be provided the appropriate "COBRA" notification. A deceased employee who was eligible for retirement shall have his or her eligible dependents notified of their eligibility for continuation coverage through the "Insurance for Retirees" guidelines.

(5) RETIREMENT. a. An employee who meets the conditions for retirement set forth in the regulations and procedures established by the State Employees' Retirement System and Shelby County, may elect to retire and receive all benefits earned under the applicable retirement plan.

b. The notice of retirement shall be forwarded through the appointing authority to the director no earlier than six months but no later than 60 days prior to the requested effective date of retirement.

c. Retiring employees shall be provided the appropriate notice to permit continued health insurance as established by the commission and applicable state and federal law. The employee shall report to the director for an exit interview on the last day of active employment to receive the appropriate information.

(6) DISMISSAL (Formal Disciplinary Action). A regular employee in the classified service may be terminated from employment with Shelby County through the application of formal disciplinary actions. Appeal rights apply as outlined within this act.

(7) PROBATIONARY TERMINATION. Classified service employees serving a probationary period may be terminated from employment with Shelby County by their respective appointing authority with or without cause and without appeal to the board.

(8) UNCLASSIFIED SERVICE TERMINATION. An employee in the unclassified service may be terminated from employment with Shelby County at the sole will of the appropriate appointing

authority. All unclassified service employees work at the pleasure of the applicable appointing authority and they do not have appeal rights to the board. No authority or individual shall be able to assign appeal rights to an unclassified service employee.

(9) **PART-TIME/TEMPORARY/SEASONAL/INTERN TERMINATION.** All employees appointed to positions recognized as either part-time, temporary, seasonal, student and interns, or emergency shall be employed-at-will. These employees shall be terminated at the sole discretion of the appointing authority with or without cause and without appeal rights to the board.

Section 15. POLITICAL ACTIVITIES AND CONFLICT OF INTEREST. (a) **POLITICAL ACTIVITIES.** In accordance with the provision of Act No. 819 of the 1978 Alabama Legislature the following governs the political activities of employees:

(1) No person in the employment of any city, whether classified or unclassified, shall be denied the right to participate in county and state political activities to the same extent as any other citizen of the State of Alabama, including endorsing candidates and contributing to campaigns of their choosing.

(2) No person in the employment of any county, whether classified or unclassified, shall be denied the right to participate in city and state political activities to the same extent as any other citizen of the State of Alabama, including endorsing candidates and contributing to campaigns of their choosing.

(3) No person in the employment of the State of Alabama, whether classified or unclassified, shall be denied the right to participate in city and county political activities to the same extent as any other citizen of the State of Alabama, including endorsing candidates and contributing to campaigns of their choosing.

(4) All persons in the employment of any city or county shall have the right to join local political clubs and organizations, and state or national political parties.

(5) All persons in the employment of any city or county shall have the right to publicly support issues of public welfare, circulate petitions calling for or in support of referendums, and contribute freely to those of their choosing.

(6) No person shall attempt to use his or her official authority or position for the purpose of influencing the vote or political action of any person.

(b) **CONFLICT OF INTEREST.** All county employees, whether classified, unclassified, part-time, or temporary, shall avoid the appearance of impropriety and conflict of interest. The

following actions, without limitations, shall be considered a conflict of interest:

(1) Investments in real property business in the immediate vicinity of a Shelby County project site which might appear to be speculative.

(2) The use of one's position and influence in the county to promote business with any company in which he or she has financial interest.

(3) Involvement in a non-county business activity ("moonlighting") which:

a. Conflicts with or limits the county's demands on an employee's availability for overtime work or performance on the job; or

b. Reflects adversely on the county.

(4) The use of one's county position to contract with any business for personal gain or to benefit friends, relatives, or associates.

Section 16. The provisions of this act are severable. If any part of this act is declared invalid or unconstitutional, that declaration shall not affect the part which remains.

(b) Upon the approval of the board and the commission, provisions and policies within this act may be amended for the betterment of the public service or the employees. The provisions governing the disciplinary actions and the defining of the classified and unclassified service shall not be amendable.

(c) All elected officials shall assist in the timely enforcement of this act.

Section 17. All laws or parts of laws which conflict with this act are repealed.

Section 18. The provisions of this act shall not apply to any employee of the Shelby County Sheriffs Department, and the provisions of this act shall not affect the Shelby County Law Enforcement Personnel Board in any manner whatsoever. No provision of this act may be construed as affecting any part of Act No. 79-524, establishing the Shelby County Law Enforcement Personnel Board.

Section 19. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved May 17, 1993

Time: 11:52 A.M.

Act No. 93-665

H. 935 – Rep. Letson

AN ACT

Relating to Lawrence County; establishing a recreation and drug abuse program; providing for funding of the program from money donated by Champion International; and providing for distribution of the funds by a board composed of the Circuit Judge, Sheriff, and the County Superintendent of Education.

Be It Enacted by the Legislature of Alabama:

Section 1. This act shall be operative only in Lawrence County.

Section 2. There is in Lawrence County, the Lawrence County Recreation and Drug Abuse Program. The program shall be administered by the Lawrence County Recreation and Drug Abuse Program Board, consisting of the Circuit Judge, the Sheriff, and the Superintendent of Education of Lawrence County.

Section 3. The board shall allocate funds donated by Champion International for recreation and drug abuse programs to various public or quasi public agencies for recreation and drug abuse programs.

Section 4. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved May 17, 1993

Time: 11:53 A.M.

Act No. 93-666

H. 947 – Rep. Letson

AN ACT

Establishing the powers and authority and requirements of district attorney's investigators of the thirty-sixth judicial circuit of Alabama.

Be It Enacted by the Legislature of Alabama:

Section 1. All investigators employed by the district attorney's office of the thirty-sixth judicial circuit shall have all the powers and authority and immunities of a deputy sheriff. All investigators employed by the district attorney's office of the thirty-sixth judicial circuit shall meet the minimum standards required of law enforcement officers as provided in Section 36-21-46, Code of Alabama 1975, or as otherwise provided by law.

Section 2. (a) All investigators employed by the district attorney's office of the thirty-sixth judicial circuit, who have been employed as such for the past 17 years, at the time of the passage of this act, shall be grandfathered as to the requirements of Section 36-21-46, and shall be deemed qualified as meeting the minimum standards for applicants and appointees as law enforcement officers.

(b) Upon the passage of this act, the Peace Officers Standards and Training Commission, shall issue a Certificate of Compliance with Section 36-21-46, to existing investigators of the thirty-sixth judicial circuit, provided they meet the time requirement of Section 2(a).

Section 3. The provisions of this act are severable. If any part of this act is declared invalid or unconstitutional, that declaration shall not affect the part which remains.

Section 4. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved May 17, 1993

Time: 11:54 A.M.

Act No. 93-667

H. 954 – Reps. McMillan, Penry

AN ACT

Relating to Baldwin County; providing for the establishment of a consolidated and unified system for assessment and collection of taxes under the supervision of an elected county official designated as county revenue commissioner; providing for the election, power, duties, term of office, and compensation of the official; abolishing the offices of tax assessor and tax collector; and providing for a referendum on the act.

Be It Enacted by the Legislature of Alabama:

Section 1. At the expiration of the terms of office, or if a vacancy occurs in either the office of tax assessor or the office of tax collector of Baldwin County, then immediately upon the occurrence of a vacancy there shall be established the Office of County Revenue Commissioner in Baldwin County. If the office is established upon the occurrence of a vacancy in either the office of tax assessor or tax collector, then the tax assessor or tax collector, as the case may be, remaining in office shall be the county revenue commissioner for the remainder of the term for which he or she

was elected. A revenue commissioner shall be elected at an election called for that purpose and every six years thereafter. He or she shall serve for a term of office of six years.

Section 2. The county revenue commissioner shall do and perform all acts, duties, and functions required by law performed either by the tax assessor or by the tax collector of the county relative to the assessment of property for ad valorem taxation, the collection of the taxes, the keeping of records, and the making of reports concerning assessments for and the collection of taxes.

Section 3. Subject to the approval of the county commission, the county revenue commissioner shall within the policies and procedures of the county commission appoint and fix the duties of a sufficient number of deputies, clerks, and assistants to perform properly the duties of his or her office. The acts of the deputies shall have the same force and legal effect as if performed by the county revenue commissioner.

Section 4. Before entering upon the duties of his or her office, the county revenue commissioner shall take the oath of office prescribed by Article XVI of the Constitution of Alabama, and execute a bond in a sum fixed by the county commission, giving as security thereon a bonding company authorized to do business in Alabama. The bond shall be conditioned, as other official bonds are conditioned, and shall be approved by and filed with the judge of probate. The cost of the bond shall be paid out of the general funds of the county on a warrant of the county commission and shall be a preferred claim against the county.

Section 5. The county commission shall provide the necessary offices for the county revenue commissioner and shall provide all stationery, equipment, and office supplies, not otherwise furnished by law, needed for the efficient performance of the duties of the office.

Section 6. The county revenue commissioner shall collect and pay into the general fund of the county all fees, percentages, commissions, and other allowances which the tax assessor and the tax collector are now or hereafter by law authorized or directed to charge or collect for the performance of a duty imposed by law on the officers and transferred to and imposed on the county revenue commissioner. As compensation for performance of the duties of his or her office, the county revenue commissioner shall receive a minimum salary as provided by Section 40-6A-2 of the Code of Alabama 1975, payable in the manner prescribed by the county commission, out of the county general fund with the exact amount to be set by resolution of the county commission prior to the county revenue commissioner taking office.

Section 7. The offices of tax assessor and tax collector of Baldwin County are abolished effective on the last day of the term to which they are elected, or on an earlier date, as is prescribed in Section 1 of this act, if a vacancy occurs in either the office of tax assessor or tax collector.

Section 8. It is the purpose of this act to conserve revenue and promote the public convenience in Baldwin County by consolidating the offices of tax assessor and tax collector into one county office.

Section 9. This act shall be inoperative and void unless it shall have been approved by a majority of the qualified electors of Baldwin County who vote at a referendum election held for this purpose. The election shall be held and conducted as nearly as may be in the same way as elections on amendments to the Constitution, and shall be held on the same day as the next special, general, or primary election held in Baldwin County next following final passage of this act. Notice of the election shall be given by the Judge of Probate of Baldwin County, which notice shall be published once a week for three successive weeks before the day of the election. On the ballots to be used at the election, the proposition to be voted on shall be stated substantially as follows:

“Shall Act No. _____ of the 1993 Regular Session of the Legislature, which provides for the abolition of the offices of Tax Assessor and Tax Collector of Baldwin County and the consolidation of the duties of those offices into the one office to be known as the County Revenue Commissioner of Baldwin County, be approved? Yes () No ().”

If a majority of the votes cast at the election are affirmative votes, this act shall be in full force and effect immediately thereafter. If a majority of the votes cast are in the negative, the act shall have no further effect. The Judge of Probate of Baldwin County shall certify the results of the election to the Secretary of State immediately after the returns have been certified.

Section 10. If the office of tax assessor or tax collector should become vacant between the expiration of the term of office of either the tax assessor or tax collector and before the time of ratification of this act by the electors of Baldwin County, this act shall be implemented immediately and the election shall be called within 45 days of the vacancy.

Section 11. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved May 17, 1993

Time: 11:55 A.M.

Act No. 93-668

H. 950 – Reps. McMillan, Penry

AN ACT

To amend Section 5 of Act No. 91-719, H. 1096, 1991 Regular Session (Acts 1991, p. 1389), providing a planning and zoning commission for the unincorporated areas of Baldwin County, to further provide the procedure for adoption of ordinances and regulations.

Be It Enacted by the Legislature of Alabama:

Section 1. Section 5 of Act No. 91-719, H. 1096, 1991 Regular Session (Acts 1991, p. 1389), is amended to read as follows:

“Section 5. Procedure for Adoption of Ordinances and Regulations. Prior to the adoption of a proposed ordinance or regulation, or amendment thereto, pursuant to this act, notice that an ordinance or regulation, or amendment thereto, will be considered shall be published for three consecutive weeks in a newspaper of general circulation in the county. The notice shall state that an ordinance or regulation, or amendment thereto, will be considered by the Baldwin County Commission pursuant to this act and that a copy of the proposed ordinance or regulation, or amendment thereto, is available for public inspection at the nearest town or city hall and at the nearest county courthouse or the nearest county courthouse satellite office which locations shall be clearly published in the notice. The notice required by this act shall be published in the legal section in standard form and, in addition, shall be published in the regular section of the newspaper which shall be in the form of at least one quarter page advertisement. The notice required to be published by this act shall also state the time and the place and location where all persons may be heard in opposition to or in favor of the ordinance or regulation. The hearing shall be in the district where the proposed ordinance or regulation is to be implemented. The regulation, ordinance, or amendment thereto, shall not become effective until adoption by the Baldwin County Commission after a public hearing thereon, at which parties in interest and citizens shall have an opportunity to be heard.”

Section 2. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved May 17, 1993

Time: 11:56 A.M.

Act No. 93-669

H. 583 – Rep. Clay

AN ACT

Relating to Macon County; to provide for the levy, collection, and distribution of an additional tax on tobacco and tobacco products.

Be It Enacted by the Legislature of Alabama:

Section 1. Upon adoption of a resolution by the Macon County Commission of authorization, there is imposed on every person, firm, or corporation that sells, stores, delivers, uses, or otherwise consumes tobacco or tobacco products in Macon County, a county privilege, license, or excise tax in the following amounts:

(1) Five cents (\$0.05) for each package of cigarettes, made of tobacco or any substitute therefor.

(2) Five cents (\$0.05) for each package of cigars or cigarettos, such as Winchester, which are similar to, and which are packaged like, cigarettes.

(3) Three cents (\$0.03) for each cigar, cheroot, or stogie of any description made of tobacco or any substitute therefor which are not similar to, nor packaged like, cigarettes as provided for in subdivision (2) of this section.

(4) Three cents (\$0.03) for each sack, can, package, or other container of smoking tobacco, including granulated, plug cut, crimp cut, ready rubbed, and other kinds and forms of tobacco which are prepared in such manner as to be suitable for smoking in a pipe or cigarette.

(5) Five cents (\$0.05) for each sack, plug, package, or other container of chewing tobacco, which tobacco is prepared in such manner as to be suitable for chewing only and not suitable for smoking as described in subdivision (3) of this section.

(6) Five cents (\$0.05) for each can, bottle, glass, tumbler package, or other container of snuff made of tobacco or any substitute therefor.

(7) Fifteen cents (\$0.15) for each package of tobacco paper, both gummed and ungummed.

This privilege, license, or excise tax shall be in addition to all other taxes imposed by law and shall be collected in the same manner as other taxes on tobacco, except that when the license tax required by this act has been paid by a wholesaler or seller of the products, that payment shall be sufficient. The Legislative intent is that the tax shall be paid but once on each package of cigarettes, chewing tobacco, snuff, cigars of every description, and smoking

tobacco of every description, and for each package of tobacco paper whether gummed or ungummed.

Section 2. The Alabama Department of Revenue shall adopt, promulgate, and enforce reasonable rules and regulations for the administration of the taxes levied by this act, Chapter 25 (commencing with Section 40-25-1) of Title 40 of the Code of Alabama 1975, not in conflict with this act.

Section 3. The net proceeds of the revenue generated by this act shall be distributed as follows:

(1) Five percent to the Macon County Retired Senior Volunteer Program.

(2) Five percent to the Tuskegee/Macon County YMCA.

(3) Five percent to the Alabama Department of Revenue for collection costs.

(4) The remainder to the volunteer fire departments and municipally supported fire departments in Macon County as determined by the Macon County Commission in consultation with the Macon County Fire Chiefs Association on an equal basis, share and share alike.

Section 4. The provisions of this act are severable. If any part of this act is declared invalid or unconstitutional, that declaration shall not affect the part which remains.

Section 5. This act shall become effective on the first day of the second month next following its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved May 17, 1993

Time: 11:56 A.M.

Act No. 93-670

H. 927 – Rep. Gullatt

AN ACT

Relating to Russell County; providing for the Russell County Commission to establish a special reserve fund for the Russell County Motor Vehicle License Commissioner for the payment of losses incurred from certain worthless checks and other instruments; providing for reimbursement of the reserve fund; providing for documentation, maintenance, and accounting of the reserve account; and requiring that the commissioner insure his or her employees exercise due care and attempt to collect all funds due.

Be It Enacted by the Legislature of Alabama:

Section 1. The Russell County Commission shall establish from its general fund a special reserve fund of up to five thousand dollars

(\$5,000) per fiscal year in the budget of the Russell County Motor Vehicle License Commissioner to pay for losses incurred in accepting worthless or forged checks, drafts, negotiable instruments, money orders, or written order for money or its equivalent for the payment of ad valorem taxes or fees pursuant to the purchase of an automobile tag if the mistake or omission causing the loss was without the personal knowledge of the official. Upon the establishment of the fund, the commissioner shall be responsible for all documentation, maintenance, and accounting of the reserve account. The commissioner may deduct an amount equal to the uncollectible negotiable instrument against the reserve fund, provided that all legal remedies shall be pursued to collect the unpaid item. Upon the collection of an unpaid item, all funds received in payment shall be deposited into the reserve account.

Section 2. It shall be the duty of the commissioner to insure that his or her employees exercise due care in performing their duties and make a diligent effort to correct the error, mistake, or omission and collect the amount subject to potential loss immediately upon becoming aware of the potential loss. This act shall not apply to a deliberate misuse or misappropriation of funds by the official or the clerks or employees of his or her office.

Section 3. The provisions of this act are severable. If any part of this act is declared invalid or unconstitutional, that declaration shall not affect the part which remains.

Section 4. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved May 17, 1993

Time: 11:57 A.M.

Act No. 93-671

H. 219 – Reps. Box, Kvalheim, Hogan
AN ACT

Relating to the Alabama Sunset Law; to continue the existence and functioning of the Alabama State Board of Pharmacy with certain modifications; to amend Sections 20-2-90, 34-23-90, and 34-23-91, Code of Alabama 1975, so as to provide requirements for drug inspection of the board, provide further for the qualifications, nomination, election, and appointment of board members, and provide further for reimbursement for relief pharmacists.

Be It Enacted by the Legislature of Alabama:

Section 1. Pursuant to the Alabama Sunset Law, the sunset committee recommends the continuance of the Alabama State

Board of Pharmacy, with the additional recommendations for statutory changes of the board as set out in Section 3 of this act.

Section 2. The existence and functioning of the Alabama State Board of Pharmacy, created and functioning pursuant to Sections 34-23-90 to 34-23-118, inclusive, Code of Alabama 1975, is continued, and those code sections are expressly preserved.

Section 3. Sections 20-2-90, 34-23-90, and 34-23-91 of the Code of Alabama 1975, are amended to read as follows:

“§20-2-90.

“(a) The state board of pharmacy and its drug inspectors shall enforce all provisions of this chapter. The agents and officers of this department of public safety, the drug and narcotic agents and inspectors of the state board of health, the investigators of the state board of medical examiners, the investigators of the board of dental examiners, and all peace officers of the state and all prosecuting attorneys are also charged with the enforcement of this chapter. The agents and officers of the department of public safety, the drug inspectors of the state board of pharmacy, the investigators of the state board of medical examiners, the investigators of the board of dental examiners, and the drug and narcotic agents and inspectors of the state board of health shall have the powers of peace officers in the performance of their duties to:

“(1) Make arrests without warrant for any offense under this chapter committed in their presence, or if they have probable cause to believe that the person to be arrested has committed or is committing a violation of this chapter which may constitute a felony.

“(2) Make seizures of property pursuant to this chapter.

“(3) Carry firearms in the performance of their official duties.

“(b) In addition to the requirements of subsection (a), drug inspectors of the State Board of Pharmacy shall, beginning October 1, 1993, meet the minimum standards required of peace officers in this state.

“§34-23-90.

“(a) The Alabama state board of pharmacy is vested with the authority to carry out the purposes of and enforce this chapter. The board shall consist of five members. The members of the board shall be licensed pharmacists who have been licensed in this state for a minimum of 5 years and who are actively engaged in the practice of pharmacy or pharmacy administration, or both.

“(b) Three members shall be appointed by the Governor. Of the three appointed members, one member shall be engaged in the

practice of pharmacy, or pharmacy administration, or both, in a hospital, one in an independent pharmacy, and one in a chain pharmacy. On or before August 1, 1996, and each five years thereafter, or whenever a vacancy occurs in the designated position for hospital pharmacists, the Alabama Society of Hospital Pharmacists shall submit a list of three nominees to the Governor. On or before August 1, 1994, and each five years thereafter, or whenever a vacancy occurs in the designated position for a chain pharmacist, the Alabama Pharmacists' Association shall submit a list of three nominees to the Governor. On or before August 1, 1997, and each five years thereafter or whenever a vacancy occurs in the designated position for the independent pharmacist, the independent pharmacist members of the Alabama Pharmacists' Association shall submit a list of three nominees to the Governor. From the names submitted to the Governor, the Governor shall appoint a replacement on or before December 31 of the same year the nominations are received, for the member or members whose term is expiring. Background information shall be provided for each nominee for an appointed position.

“(c) On or before December 1, 1995, and each five years thereafter, and on or before December 1, 1998, and each five years thereafter, or whenever a vacancy occurs in a nondesignated position, the board of trustees of the Alabama Pharmacists' Association shall select a committee of five pharmacists who are members of the association to serve as a nominating committee. No one on the committee shall be a candidate. The committee shall receive names of pharmacists actively engaged in pharmacy practice or administration, or both, from companies and individuals, and shall narrow the list of nominees to two names to be placed on a ballot to be voted on by all Alabama pharmacists. The election procedure for a nondesignated slot shall be as follows: Each candidate shall provide a biographical sketch of not more than 150 words, which shall include his or her most recent practice experience. The board shall mail election ballots and a biographical sketch of the candidates to Alabama licensed pharmacists by September 1. Completed ballots returned to the board postmarked by October 1 shall be tabulated. A pharmacist receiving a majority of the ballots received shall be considered the winner. If a runoff election is necessary, the runoff ballots shall be mailed to licensed pharmacists by November 1 and returned postmarked by December 1. A canvassing committee consisting of a representative from the Alabama Pharmacists' Association, Alabama Society of Hospital Pharmacists, Auburn University School of Pharmacy, and Samford University School of Pharmacy shall tabulate the ballots.

“(d) Any vacancies occurring on the board other than by expiration of term shall be filled by election or appointment only for the unexpired term and shall be filled by the same procedure that the replaced member was elected or appointed. Each member of

the board shall serve a term of five years beginning on January 1 following appointment and terminating on December 31 of his or her fifth year as a member of the board.

“(e) No pharmacist shall serve two full terms consecutively.

“(f) The governor, upon recommendation of the board, may remove a member of the board upon proven charges of inefficiency, incompetency, immorality, or professional misconduct. The replacement member shall be elected or appointed by the same procedure that the removed member was elected or appointed. Appointees to the board shall within 30 days after their appointment or election take an oath or make affirmation before a properly qualified officer that they will faithfully and impartially perform the duties of their office. This oath or affirmation shall be filed with the secretary of state. At its last regular meeting in each calendar year, the board shall organize by electing for a term of one year, effective the following January 1, a president, a vice-president, and a treasurer who shall be members of the board. No member shall serve more than two years in the same office on the board during a five-year term. The board shall also elect a secretary who shall not serve as a member of the board and the board shall have the authority to fix the amount of the secretary’s remuneration. If a board member is selected as secretary, the board member shall resign from the board and a replacement on the board shall be selected by the same procedure by which the resigned member was originally elected or appointed. The secretary shall not be employed during the service by any registrant of the board.

“(g) For the purpose of this section, a chain pharmacy shall be defined as any retail pharmacy employing in Alabama a minimum of 40 full-time equivalent pharmacists. A chain pharmacist is defined as a pharmacist employed on a full-time basis by a chain **pharmacy for a minimum of three years.**

“(h) It is the intent of the Legislature that the composition of the board reflect the demographics of the pharmacy profession.

“§34-23-91.

“The president of the board shall preside at all of the board’s meetings. The vice-president shall preside in the absence or inability of the president. The secretary of the board shall be the executive officer in charge of the board’s office. The secretary shall make, keep, and be in charge of all records and record books required to be kept by the board, including a register containing all information which shall be required under this chapter. The secretary shall attend to the correspondence of the board and perform any other duties the board may require in keeping with the office of secretary. The secretary shall receive and record all fees collected under this chapter and, at regular intervals as ordered by the board, shall pay the fees to the

treasurer of the board for its use. The secretary may have any forms printed and office supplies furnished as necessary to implement this chapter. The secretary and treasurer of the board shall each furnish bond in an amount to be fixed by the board and shall be conditioned upon the faithful performance and discharge of their respective official duties. The members of the board shall be paid the same per diem and travel allowance as is paid by law to state employees while engaged in the performance of the duties of the board, in addition to any daily compensation or allowance determined by the board. The board shall conduct meetings at least three times annually and more often when deemed necessary for the examination of applicants for licensure and for the transaction of business as may legally come before it. Public notice of all stated meetings shall be given at least 30 days in advance of the meetings. At all meetings of the board, a majority shall constitute a quorum. The members of the board shall determine the place of meetings of the board. The treasurer of the board shall have custody of all funds derived from the various provisions of this chapter. All disbursements shall be made by check as authorized by vouchers signed by the president and secretary of the board. The books and records of the board as made and kept by the secretary or under his supervision shall be prima facie evidence of the matter therein recorded in any court."

Section 4. The Legislature concurs in the recommendations of the Sunset Committee as provided in Sections 1, 2, and 3 of this act.

Section 5. The provisions of this act are severable. If any part of this act is declared invalid or unconstitutional, that declaration shall not affect the part which remains.

Section 6. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved May 17, 1993

Time: 11:58 A.M.

Act No. 93-672

S. 94 – Senator deGraffenried

AN ACT

To amend Section 16-28-12 of the Code of Alabama 1975, relating to the responsibility of a parent, guardian, or person in charge of a child to ensure that the child enrolls and attends school and conducts himself or herself properly as a pupil; to require principals and superintendents or the designees of the superintendents to report suspected violations to the district attorney, to provide criminal penalties for failure to report, and to require district attorneys to vigorously enforce

the law; to require local boards of education to establish programs to inform parents of school children of their education-related responsibilities to their children.

Be It Enacted by the Legislature of Alabama:

Section 1. Section 16-28-12 of the Code of Alabama 1975, is amended to read as follows:

“§16-28-12.

“(a) Each parent, guardian, or other person having control or custody of any child required to attend school or receive regular instruction by a private tutor who fails to have the child enrolled in school or who fails to send the child to school, or have him or her instructed by a private tutor during the time the child is required to attend a public school, private school, denominational school, or parochial school or be instructed by a private tutor, or fails to require the child to regularly attend the school or tutor, or fails to compel the child to properly conduct himself or herself as a pupil in accordance with a written policy on school behavior adopted by the local board of education and documented by the appropriate school official which conduct may result in the suspension of the pupil, shall be guilty of a misdemeanor and, upon conviction, shall be fined not more than one hundred dollars (\$100) and may also be sentenced to hard labor for the county for not more than 90 days. The absence of a child without the consent of the principal teacher of the school he or she attends or should attend, or of the tutor who instructs or should instruct the child, shall be prima facie evidence of the violation of this section.

“(b) Any parent, guardian, or other person having control or custody of any child enrolled in public school who fails to require the child to regularly attend the school or tutor, or fails to compel the child to properly conduct himself or herself as a pupil in accordance with a written policy on school behavior adopted by the local board of education and documented by the appropriate school official which conduct may result in the suspension of the pupil, shall be reported by the principal to the superintendent of education of the school system in which the suspected violation occurred. The superintendent of education or his or her designee shall report such suspected violations to the district attorney within 10 days. Any principal or superintendent of education or his or her designee intentionally failing to report such a suspected violation shall be guilty of a Class C misdemeanor. The district attorney shall vigorously enforce this section to ensure proper conduct and required attendance by any child enrolled in public school.”

Section 2. (a) Local boards of education, pursuant to guidelines established by the State Board of Education, shall establish educational programs to inform parents of school children of their education-related responsibilities to their children. The programs shall include, but shall not be limited to, coverage of each of the following topics:

(1) The criminal liability and criminal sanctions parents may be subject to under Section 16-28-12 of the Code of Alabama 1975, for failing to compel their child to properly conduct himself or herself as a pupil, or for failing to ensure that their child attends school or enrolls in school.

(2) The necessity for a parent to monitor and supervise the school work and educational activities of the child.

(3) An explanation of the responsibilities of teachers and the school system to a child, and an enumeration of those matters that are strictly the responsibility of the parent.

(4) Techniques and suggestions to enable a parent to best supervise the school work and educational activities of the child.

(5) An explanation of the interrelationship of the family life of a child and the educational achievement of the child.

(b) The State Board of Education and local boards of education shall develop strategies to ensure that parents of school children receive this information. These strategies may include provisions for weekend meetings, one-to-one conferences, telephone communications, and neighborhood meetings.

(c) Local district attorneys and law enforcement officials shall, at the request of the local board of education, assist in the implementation and operation of this section.

Section 3. The provisions of this act are severable. If any part of this act is declared invalid or unconstitutional, that declaration shall not affect the part which remains.

Section 4. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved May 17, 1993

Time: 12:01 P.M.

Act No. 93-673

S. 12 – Senator Owens

AN ACT

Relating to insurance; to provide further for a system for allowing the Commissioner of Insurance to regulate certain reinsurance brokers and managers who solicit, negotiate, or place reinsurance cession or retrocession on behalf of a ceding insurer; to include provisions for licensure, required contract provisions, duties, and prohibited acts, along with penalties and liabilities for violations.

Be It Enacted by the Legislature of Alabama:

Section 1. Short Title. This act may be cited as the Alabama Reinsurance Intermediary Act.

Section 2. Definitions. As used in this act, the following words shall have the following meanings:

(1) **ACTUARY.** A person who is a member in good standing of the American Academy of Actuaries.

(2) **COMMISSIONER.** The Alabama Commissioner of Insurance.

(3) **CONTROLLING PERSON.** Any person, firm, association, or corporation who directly or indirectly has the power to direct or cause to be directed, the management, control, or activities of the reinsurance intermediary.

(4) **INSURER.** Any person, firm, association, or corporation duly licensed in this state pursuant to the applicable provisions of the insurance law as an insurer.

(5) **LICENSED PRODUCER.** An agent, broker, or reinsurance intermediary licensed pursuant to the applicable provision of the insurance law.

(6) **QUALIFIED U.S. FINANCIAL INSTITUTION.** An institution that:

a. Is organized or, in the case of a U.S. office of a foreign banking organization, licensed, pursuant to the laws of the United States or any state.

b. Is regulated, supervised and examined by federal or state authorities having regulatory authority over banks and trust companies.

c. Has been determined by either the commissioner, or the Securities Valuation Office of the National Association of Insurance Commissioners, to meet the standards of financial condition and standing as are considered necessary and appropriate to regulate the quality of financial institutions whose letters of credit will be acceptable to the commissioner.

(7) **REINSURANCE INTERMEDIARY.** A reinsurance intermediary-broker or a reinsurance intermediary-manager as these terms are defined in subdivisions (8) and (9) of this section.

(8) **REINSURANCE INTERMEDIARY-BROKER.** Any person, other than an officer or employee of the ceding insurer, firm, association, or corporation who solicits, negotiates, or places reinsurance cessions or retrocessions on behalf of a ceding insurer without the authority or power to bind reinsurance on behalf of such insurer.

(9) **REINSURANCE INTERMEDIARY-MANAGER.** Any person, firm, association, or corporation who has authority to bind or manages all or part of the assumed reinsurance business of a reinsurer (including the management of a separate division, department or underwriting office) and acts as an agent for such reinsurer whether known as a reinsurance intermediary-manager, manager, or other similar term. Notwithstanding the above, the following persons shall not be considered a reinsurance intermediary-manager, with respect to such reinsurer, for the purposes of this act:

- a. An employee of the reinsurer.
- b. A U.S. manager of the United States branch of an alien reinsurer.
- c. An underwriting manager which, pursuant to contract, manages all the reinsurance operations of the reinsurer, is under common control with the reinsurer, subject to Chapter 29, Title 27, Code of Alabama 1975, and whose compensation is not based on the volume of premiums written.
- d. The manager of a group, association, pool, or organization of insurers which engages in joint underwriting or joint reinsurance and who are subject to examination by the Commissioner of Insurance of the state in which the manager's principal business office is located.

(10) **REINSURER.** Any person, firm, association, or corporation duly licensed in this state pursuant to the applicable provisions of the insurance law as an insurer with the authority to assume reinsurance.

(11) **TO BE IN VIOLATION.** The reinsurance intermediary, insurer, or reinsurer for whom the reinsurance intermediary was acting failed to substantially comply with the provisions of this act.

Section 3. Licensure. (a) No person, firm, association, or corporation shall act as a reinsurance intermediary-broker in this state if the reinsurance intermediary-broker maintains an office either directly, or as a member or employee of a firm or association, or an officer, director, or employee of a corporation:

(1) In this state, unless the reinsurance intermediary-broker is a licensed producer in this state.

(2) In another state, unless the reinsurance intermediary-broker is a licensed producer in this state or another state having a law substantially similar to this law or the reinsurance intermediary-broker is licensed in this state as a nonresident reinsurance intermediary.

(b) No person, firm, association, or corporation shall act as a reinsurance intermediary-manager:

(1) For a reinsurer domiciled in this state, unless the reinsurance intermediary-manager is a licensed producer in this state.

(2) In this state, if the reinsurance intermediary-manager maintains an office either directly or as a member or employee of a firm or association, or an officer, director, or employee of a corporation in this state, unless the reinsurance intermediary-manager is a licensed producer in this state.

(3) In another state for a nondomestic insurer, unless the reinsurance intermediary-manager is a licensed producer in this state or another state having a law substantially similar to this law or the person is licensed in this state as a nonresident reinsurance intermediary.

(c) The commissioner may require a reinsurance intermediary-manager subject to subsection (b) to:

(1) File a bond in an amount from an insurer acceptable to the commissioner for the protection of the reinsurer.

(2) Maintain an errors and omissions policy in an amount acceptable to the commissioner.

(d) (1) The commissioner may issue a reinsurance intermediary license to any person, firm, association, or corporation who has complied with the requirements of this act. Any license issued to a firm or association shall authorize all the members of the firm or association and any designated employees to act as reinsurance intermediaries pursuant to the license, and all the persons shall be named in the application and any supplements to the application. Any license issued to a corporation shall authorize all of the officers, and any designated employees and directors of the corporation to act as reinsurance intermediaries on behalf of the corporation, and all the persons shall be named in the application and any supplements thereto.

(2) If the applicant for a reinsurance intermediary license is a nonresident, the applicant, as a condition precedent to receiving or holding a license, shall designate the commissioner as agent for service of process in the manner, and with the same legal effect, provided for by this act for designation of service of process upon unauthorized insurers; and also shall furnish the commissioner with the name and address of a resident of this state upon whom notices or orders of the commissioner or process affecting such nonresident reinsurance intermediary may be served. A licensee shall promptly notify the commissioner in writing of every change in its designated agent for service of process, and any change shall not become effective until acknowledged by the commissioner.

(e) The commissioner may refuse to issue a reinsurance intermediary license if, in his judgment, the applicant, any one named on the application, or any member, principal, officer, or director of the applicant, is not trustworthy, or that any controlling person of the applicant is not trustworthy to act as a reinsurance intermediary, or that any of the foregoing has given cause for revocation or suspension of such license, or has failed to comply with any prerequisite for the issuance of the license. Upon a refusal, the commissioner shall promptly give written notice to the applicant that the license is refused, stating the reasons for the refusal.

(f) Licensed attorneys at law of this state, when acting in their professional capacity, shall be exempt from this section.

Section 4. Required Contract Provisions; Reinsurance Intermediary-Brokers. Transactions between a reinsurance intermediary-broker and the insurer it represents in that capacity shall only be entered into pursuant to a written authorization, specifying the responsibilities of each party. The authorization shall, at a minimum, provide that:

(1) The insurer may terminate the reinsurance intermediary-broker's authority at any time.

(2) The reinsurance intermediary-broker shall render accounts to the insurer accurately detailing all material transactions, including information necessary to support all commissions, charges, and other fees received by, or owing, to the reinsurance intermediary-broker, and remit all funds due to the insurer within 30 days of receipt.

(3) All funds collected for the insurer's account shall be held by the reinsurance intermediary-broker in a fiduciary capacity in a bank which is a qualified U.S. financial institution as defined herein.

(4) The reinsurance intermediary-broker shall comply with Section 5 of this act.

(5) The reinsurance intermediary-broker shall comply with the written standards established by the insurer for the cession or retrocession of all risks.

(6) The reinsurance intermediary-broker shall disclose to the insurer any relationship with any reinsurer to which business will be ceded or retroceded.

Section 5. Books and Records; Reinsurance Intermediary Brokers. (a) For at least 10 years after expiration of each contract of reinsurance transacted by the reinsurance intermediary-broker, the reinsurance intermediary-broker shall keep a complete record for each transaction showing all of the following:

(1) The type of contract, limits, underwriting restrictions, classes, or risks and territory.

(2) Period of coverage, including effective and expiration dates, cancellation provisions, and notice required of cancellation.

(3) Reporting and settlement requirements of balances.

(4) Rate used to compute the reinsurance premium.

(5) Names and addresses of assuming reinsurers.

(6) Rates of all reinsurance commissions, including the commissions on any retrocessions handled by the reinsurance intermediary-broker.

(7) Related correspondence and memoranda.

(8) Proof of placement.

(9) Details regarding retrocessions handled by the reinsurance intermediary-broker including the identity of retrocessionaires and percentage of each contract assumed or ceded.

(10) Financial records, including, but not limited to, premium and loss accounts.

(11) When the reinsurance intermediary-broker procures a reinsurance contract on behalf of a licensed ceding insurer:

a. Directly from any assuming reinsurer, written evidence that the assuming reinsurer has agreed to assume the risk.

b. If placed through a representative of the assuming reinsurer, other than an employee, written evidence that the reinsurer has delegated binding authority to the representative.

(b) The insurer shall have access and the right to copy and audit **all accounts and records maintained by the reinsurance intermediary-broker** related to its business in a form usable by the insurer.

Section 6. Duties of Insurers Utilizing the Services of a Reinsurance Intermediary-Broker. (a) An insurer shall not engage the services of any person, firm, association, or corporation to act as a reinsurance intermediary-broker on its behalf unless the person is licensed as required by Section 3(a) of this act.

(b) An insurer may not employ an individual who is employed by a reinsurance intermediary-broker with which it transacts business, unless such reinsurance intermediary-broker is under common control with the insurer and subject to Chapter 29, Title 27, Code of Alabama 1975.

(c) The insurer shall annually obtain a copy of statements of the financial condition of each reinsurance intermediary-broker with which it transacts business.

Section 7. Required Contract Provisions; Reinsurance Intermediary-Managers. Transactions between a reinsurance intermediary-manager and the reinsurer it represents in that capacity shall only be entered into pursuant to a written contract, specifying the responsibilities of each party, which shall be approved by the reinsurer's board of directors. At least 30 days before a reinsurer assumes or cedes business through a producer, a true copy of the approved contract shall be filed with the commissioner for approval. The contract shall, at a minimum, provide that:

(1) The reinsurer may terminate the contract for cause upon written notice to the reinsurance intermediary-manager. The reinsurer may immediately suspend the authority of the reinsurance intermediary-manager to assume or cede business during the pendency of any dispute regarding the cause for termination.

(2) The reinsurance intermediary-manager shall render accounts to the reinsurer accurately detailing all material transactions, including information necessary to support all commissions, charges, and other fees received by, or owing to the reinsurance intermediary-manager, and remit all funds due under the contract to the reinsurer on not less than a monthly basis.

(3) All funds collected for the reinsurer's account shall be held by the reinsurance intermediary-manager in a fiduciary capacity in a bank which is a qualified U.S. financial institution as defined herein. The reinsurance intermediary-manager may retain no more than three months estimated claims payments and allocated loss adjustment expenses. The reinsurance intermediary-manager shall maintain a separate bank account for each reinsurer that it represents.

(4) For at least 10 years after expiration of each contract of reinsurance transacted by the reinsurance intermediary-manager, the reinsurance intermediary-manager shall keep a complete record for each transaction showing all of the following:

a. The type of contract, limits, underwriting restrictions, classes, or risks and territory.

b. Period of coverage, including effective and expiration dates, cancellation provisions, and notice required of cancellation, and disposition of outstanding reserves on covered risks.

c. Reporting and settlement requirements of balances.

d. Rate used to compute the reinsurance premium.

e. Names and addresses of reinsurers.

f. Rates of all reinsurance commissions, including the commissions on any retrocessions handled by the reinsurance intermediary-manager.

g. Related correspondence and memoranda.

h. Proof of placement.

i. Details regarding retrocessions handled by the reinsurance intermediary-manager, as permitted by Section 9(d) of this act, including the identity of retrocessionaires and percentage of each contract assumed or ceded.

j. Financial records, including, but not limited to, premium and loss accounts.

k. When the reinsurance intermediary-manager places a reinsurance contract on behalf of a ceding insurer:

1. Directly from any assuming reinsurer, written evidence that the assuming reinsurer has agreed to assume the risk.

2. If placed through a representative of the assuming reinsurer, other than an employee, written evidence that the reinsurer has delegated binding authority to the representative.

(5) The reinsurer shall have access and the right to copy all accounts and records maintained by the reinsurance intermediary-manager related to its business in a form usable by the reinsurer.

(6) The contract cannot be assigned in whole or in part by the reinsurance intermediary-manager.

(7) The reinsurance intermediary-manager shall comply with the written underwriting and rating standards established by the insurer for the acceptance, rejection, or cession of all risks.

(8) Sets forth the rates, terms, and purposes of commissions, charges, and other fees which the reinsurance intermediary-manager may levy against the reinsurer.

(9) If the contract permits the reinsurance intermediary-manager to settle claims on behalf of the reinsurer:

- a. All claims shall be reported to the reinsurer in a timely manner.

- b. A copy of the claim file shall be sent to the reinsurer at its request or as soon as it becomes known that the claim:

1. Has the potential to exceed the lesser of an amount determined by the commissioner or the limit set by the reinsurer.

2. Involves a coverage dispute.

3. May exceed the reinsurance intermediary-manager's claims settlement authority.

4. Is open for more than six months.

5. Is closed by payment of the lesser of an amount set by the commissioner or an amount set by the reinsurer.

c. All claim files shall be the joint property of the reinsurer and reinsurance intermediary-manager. However, upon an order of liquidation of the reinsurer, the files shall become the sole property of the reinsurer or its estate; the reinsurance intermediary-manager shall have reasonable access to and the right to copy the files on a timely basis.

d. Any settlement authority granted to the reinsurance intermediary-manager may be terminated for cause upon the reinsurer's written notice to the reinsurance intermediary-manager or upon the termination of the contract. The reinsurer may suspend the settlement authority during the pendency of the dispute regarding the cause of termination.

(10) If the contract provides for a sharing of interim profits by the reinsurance intermediary-manager, that the interim profits shall not be paid until one year after the end of each underwriting period for property business and five years after the end of each underwriting period for casualty business (or a later period set by the commissioner for specified lines of insurance), and not until the adequacy of reserves on remaining claims has been verified pursuant to Section 9(c) of this act.

(11) The reinsurance intermediary-manager shall annually provide the reinsurer with a statement of its financial condition prepared by an independent certified accountant.

(12) The reinsurer shall periodically (at least semiannually) conduct an on-site review of the underwriting and claims processing operations of the reinsurance intermediary-manager.

(13) The reinsurance intermediary-manager shall disclose to the reinsurer any relationship it has with any insurer prior to ceding or assuming any business with such insurer pursuant to this contract.

(14) Within the scope of its actual or apparent authority the acts of the reinsurance intermediary-manager shall be deemed to be the acts of the reinsurer on whose behalf it is acting.

Section 8. Prohibited Acts. The reinsurance intermediary-manager shall not:

(1) Cede retrocessions on behalf of the reinsurer, except that the reinsurance intermediary-manager may cede facultative retrocessions pursuant to obligatory facultative agreements if the contract with the reinsurer contains reinsurance underwriting guidelines for such retrocessions. The guidelines shall include a list of

reinsurers with which any automatic agreements are in effect, and for each such reinsurer, the coverages and amounts or percentages that may be reinsured, and commission schedules.

(2) Commit the reinsurer to participate in reinsurance syndicates.

(3) Appoint any producer without assuring that the producer is lawfully licensed to transact the type of reinsurance for which the producer is appointed.

(4) Without prior approval of the reinsurer, pay or commit the reinsurer to pay a claim, net of retrocessions, that exceeds the lesser of an amount specified by the reinsurer or one percent of the reinsurer's policyholder's surplus as of December 31 of the last complete calendar year.

(5) Collect any payment from a retrocessionaire or commit the reinsurer to any claim settlement with a retrocessionaire, without prior approval of the reinsurer. If prior approval is given, a report shall be promptly forwarded to the reinsurer.

(6) Jointly employ an individual who is employed by the reinsurer unless such reinsurance intermediary-manager is under common control with the reinsurer subject to the Chapter 29, Title 27, Code of Alabama 1975.

(7) Appoint a sub-reinsurance intermediary-manager.

Section 9. Duties of Reinsurers Utilizing the Services of a Reinsurance Intermediary-Manager. (a) A reinsurer shall not engage the services of any person, firm, association, or corporation to act as a reinsurance intermediary-manager on its behalf unless such person is licensed as required by Section 3(b) of this act.

(b) The reinsurer shall annually obtain a copy of statements of the financial condition of each reinsurance intermediary-manager which such reinsurer has engaged prepared by an independent certified accountant in a form acceptable to the commissioner.

(c) If a reinsurance intermediary-manager establishes loss reserves, the reinsurer shall annually obtain the opinion of an actuary attesting to the adequacy of loss reserves established for losses incurred and outstanding on business produced by the reinsurance intermediary-manager. This opinion shall be in addition to any other required loss reserve certification.

(d) Binding authority for all retrocessional contracts or participation in reinsurance syndicates shall rest with an officer of the reinsurer who shall not be affiliated with the reinsurance intermediary-manager.

(e) Within 30 days of termination of a contract with a reinsurance intermediary-manager, the reinsurer shall provide written notification of such termination to the commissioner.

(f) A reinsurer shall not appoint to its board of directors, any officer, director, employee, controlling shareholder, or subproducer of its reinsurance intermediary-manager. This subsection shall not apply to relationships governed by Chapter 29, Title 27, Code of Alabama 1975.

Section 10. Examination Authority. (a) A reinsurance intermediary shall be subject to examination by the commissioner. The commissioner shall have access to all books, bank accounts, and records of the reinsurance intermediary in a form usable to the commissioner.

(b) A reinsurance intermediary-manager may be examined as if it were the reinsurer.

Section 11. Penalties and Liabilities. (a) A reinsurance intermediary, insurer, or reinsurer found by the commissioner, after a hearing conducted in accordance with Section 27-2-28, Code of Alabama 1975, to be in violation of this act, shall:

(1) For each separate violation, pay a penalty in an amount not exceeding five thousand dollars (\$5,000).

(2) Be subject to revocation or suspension of its license.

(3) If a violation was committed by the reinsurance intermediary, the reinsurance intermediary shall make restitution to the insurer, reinsurer, rehabilitator, or liquidator of the insurer or reinsurer for the net losses incurred by the insurer or reinsurer attributable to such violation.

(b) The decision, determination, or order of the commissioner pursuant to subsection (a) of this section shall be subject to judicial review pursuant to Section 27-2-32, Code of Alabama 1975.

(c) Nothing contained in this section shall affect the right of the commissioner to impose any other penalties provided in the insurance law.

(d) Nothing contained in this act is intended to or shall in any manner limit or restrict the rights of policyholders, claimants, creditors, or other third parties or confer any rights to those persons.

Section 12. Rules and Regulations. The commissioner may adopt reasonable rules and regulations for the implementation and administration of the provisions of this act.

Section 13. Repealer. All laws or parts of laws in conflict with this act are repealed.

Section 14. Severability. The provisions of this act are severable. If any part of this act is declared invalid or unconstitutional, that declaration shall not affect the part which remains.

Section 15. Effective Date. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming law. No insurer or reinsurer may continue to utilize the services of a reinsurance intermediary on and after the effective date unless utilization is in compliance with this act.

Approved May 17, 1993

Time: 12:02 P.M.

Act No. 93-674

S. 13 – Senator Owens

AN ACT

To provide for regulation by the Department of Insurance of the formation and the operation of risk retention groups and purchasing groups in this state formed pursuant to the federal Liability Risk Retention Act of 1986, to the extent permitted by federal law; and to make certain exceptions for county self-insurance funds.

Be It Enacted by the Legislature of Alabama:

Section 1. The purpose of this act is to regulate the formation and the operation of risk retention groups and purchasing groups in this state formed pursuant to the federal Liability Risk Retention Act of 1986, to the extent permitted by federal law. This act shall be known and may be cited as the “Alabama Risk Retention Act.”

Section 2. For the purposes of this act, unless the context clearly indicates otherwise, the following words and phrases shall have the following meanings, respectively:

(1) **COMMISSIONER.** The Insurance Commissioner of this state or the commissioner, director, or superintendent of insurance in any other state.

(2) **COMPLETED OPERATIONS LIABILITY.** Liability arising out of the installation, maintenance, or repair of any product at a site which is not owned or controlled by either of the following:

- a. Any person who performs that work.
- b. Any person who hires an independent contractor to perform that work, but shall include liability for activities which are

completed or abandoned before the date of the occurrence giving rise to the liability.

(3) **DOMICILE.** For purposes of determining the state in which a purchasing group is domiciled:

a. For a corporation, the state in which the purchasing group is incorporated.

b. For an unincorporated entity, the state of its principal place of business.

(4) **HAZARDOUS FINANCIAL CONDITION.** Based on its present or reasonably anticipated financial condition, a risk retention group, although not yet financially impaired or insolvent, is unlikely to be able to do either of the following:

a. To meet obligations to policyholders with respect to their own claims and reasonably anticipated claims.

b. To pay other obligations in the normal course of business.

(5) **INSURANCE.** Primary insurance, excess insurance, reinsurance, surplus lines insurance, and any other arrangement for shifting and distributing risk which is determined to be insurance under the laws of this state.

(6) **LIABILITY.** a. Legal liability for damages (including costs of defense, legal costs and fees, and other claims expenses) because of injuries to other persons, damage to their property, or other damage or loss to other persons resulting from or arising out of either of the following:

1. Any business, whether profit or nonprofit, trade, product, services, including professional services, premises, or operations.

2. Any activity of any state or local government, or any agency, or political subdivision thereof.

b. Liability does not include personal risk liability and an employer's liability with respect to its employees other than legal liability under the Federal Employers' Liability Act, 45 U.S.C. 51, et seq.

(7) **PERSONAL RISK LIABILITY.** Liability for damages because of injury to any person, damage to property, or other loss or damage resulting from any personal, familial, or household responsibilities or activities, rather than from responsibilities or activities referred to in Section 2(6) a. and b.

(8) **PLAN OF OPERATION OR A FEASIBILITY STUDY.** An analysis which presents the expected activities and results of a risk retention group including at a minimum all of the following:

a. Information sufficient to verify that its members are engaged in businesses or activities similar or related with respect to the liability to which the members are exposed by virtue of any related, similar, or common business, trade, product, services, premises, or operations.

b. For each state in which it intends to operate, the coverages, deductibles, coverage limits, rates, and rating classification systems for each line of insurance the group intends to offer.

c. Historical and expected loss experience of the proposed members and national experience of similar exposures to the extent that this experience is reasonably available.

d. Pro forma financial statements and projections.

e. Appropriate opinions by a qualified, independent casualty actuary, including a determination of minimum premium or participation levels required to commence operations and to prevent a hazardous financial condition.

f. Identification of management, underwriting and claims procedures, marketing methods, managerial oversight methods, investment policies, and reinsurance agreements.

g. Identification of each state in which the risk retention group has obtained, or sought to obtain, a charter and license, and a description of its status in each state.

h. Other matters as may be prescribed by the Commissioner of Insurance, or like official, in which the risk retention group is chartered for liability insurance companies authorized by the insurance laws of that state.

(9) **PRODUCT LIABILITY.** Liability for damages because of any personal injury, death, emotional harm, consequential economic damage, or property damage, including damages resulting from the loss of use of property, arising out of the manufacture, design, importation, distribution, packaging, labeling, lease, or sale of a product, but does not include the liability of any person for those damages if the product involved was in the possession of the person when the incident giving rise to the claim occurred.

(10) **PURCHASING GROUP.** Any group which meets all of the following:

a. Has as one of its purposes the purchase of liability insurance on a group basis.

b. Purchases the insurance only for its group members and only to cover their similar or related liability exposure, as described in subdivision (10)c.

c. Is composed of members whose businesses or activities are similar or related with respect to the liability to which members are exposed by virtue of any related, similar, or common business, trade, product, services, premises, or operations.

d. Is domiciled in any state.

(11) **RISK RETENTION GROUP.** Any corporation or other limited liability association which meets all of the following:

a. Its primary activity consists of assuming and spreading all, or any portion, of the liability exposure of its group members.

b. It is organized for the primary purpose of conducting the activity described under subdivision (11)a.

c. It is either of the following:

1. Chartered and licensed as a liability insurance company and authorized to engage in the business of insurance under the laws of any state.

2. Before January 1, 1985, it was chartered or licensed and authorized to engage in the business of insurance under the laws of Bermuda or the Cayman Islands and, before that date, had certified to the insurance commissioner of at least one state that it satisfied the capitalization requirements of the state, except that any such group shall be considered to be a risk retention group only if it has been engaged in business continuously since such date and only for the purpose of continuing to provide insurance to cover product liability or completed operations liability, as the terms were defined in the Product Liability Risk Retention Act of 1981 before the date of the enactment of the Liability Risk Retention Act of 1986.

d. It does not exclude any person from membership in the group solely to provide for their members a competitive advantage over the person denied.

e. It either:

1. Has as its owners only persons who comprise the membership of the risk retention group and who are provided insurance by the group.

2. Has as its sole owner an organization which has as:

(i) Its members only persons who comprise the membership of the risk retention group; and

(ii) Its owners only persons who comprise the membership of the risk retention group and who are provided insurance by that group.

f. Its members are engaged in businesses or activities similar, or related, with respect to the liability of which the members are exposed by virtue of any related, similar, or common business trade, product, services, premises, or operations.

g. Its activities do not include providing insurance other than both of the following:

1. Liability insurance for assuming and spreading all or any portion of the liability of its group members.

2. Reinsurance with respect to the liability of any other risk retention group, or any members of that other group, which is engaged in businesses or activities so that the group or member meets the requirement described in Section 2(6), a and b, from membership in the risk retention group which provides the reinsurance.

h. The name of which includes the phrase "Risk Retention Group."

(12) STATE. Any state of the United States or the District of Columbia.

Section 3. Risk Retention Groups Chartered in this State.

(a) A risk retention group shall, pursuant to Title 27 of the Code of Alabama 1975, be chartered and licensed to write only liability insurance pursuant to this act and, except as provided elsewhere in this act, shall comply with all of the laws, rules, regulations, and requirements applicable to the insurers chartered and licensed in this state and with Section 4 of this act, to the extent the requirements are not a limitation on laws, rules, regulations, or requirements of this state.

(b) Before it may offer insurance in any state, each risk retention group shall also submit for approval to the Commissioner of Insurance a plan of operation or feasibility study. The risk retention group shall submit an appropriate revision in the event of any subsequent material change in any item of the plan of operation or feasibility study within 10 days of the change. The group shall not offer any additional kinds of liability insurance, in this state or in any other state, until a revision of the plan or study is approved by the commissioner.

(c) At the time of filing its application for charter, the risk retention group shall provide to the commissioner in summary form the following information: the identity of the initial members of the group, the identity of those individuals who organized the group or who will provide administrative services, or otherwise influence or control the activities of the group, the amount and

nature of initial capitalization, the coverages to be afforded, and the states in which the group intends to operate. Upon receipt of this information, the commissioner shall forward the information to the National Association of Insurance Commissioners. Notification to the National Association of Insurance Commissioners is in addition to and shall not be sufficient to satisfy the requirements of Section 4 or any other sections of this act.

Section 4. Risk Retention Groups Not Chartered in this State.

Risk retention groups chartered and licensed in states other than this state and seeking to do business as a risk retention group in this state shall comply with the laws of this state as follows:

(1) Notice of operations and designation of commissioner as agent.

a. Before offering insurance in this state, a risk retention group shall submit to the commissioner both of the following:

1. A statement identifying the state or states in which the risk retention group is chartered and licensed as a liability insurance company, charter date, its principal place of business, and other information, including information on its membership, as the commissioner of this state may require to verify that the risk retention group is qualified pursuant to Section 2(11) of this act.

2. A copy of its plan of operations or feasibility study and revisions of the plan or study submitted to the state in which the risk retention group is chartered and licensed, provided that the provision relating to the submission of a plan of operation or feasibility study shall not apply with respect to any line or classification of liability insurance which was both:

(i) Defined in the Product Liability Risk Retention Act of 1981 before October 27, 1986.

(ii) Offered before that date by any risk retention group which had been chartered and operating for not less than three years before that date.

b. The risk retention group shall submit a copy of any revision to its plan of operation or feasibility study required by Section 3(b) of this act at the same time that the revision is submitted to the commissioner of its chartering state.

c. The risk retention group shall designate the commissioner as its agent for the purpose of receiving service of legal documents or process with a statement of registration, for which a filing fee shall be determined by the commissioner.

(2) Financial Condition. Any risk retention group doing business in this state shall submit to the commissioner all of the following:

a. A copy of the group's financial statement submitted to the state in which the risk retention group is chartered and licensed which shall be certified by an independent public accountant and contain a statement of opinion on loss and loss adjustment expense reserves made by a member of the American Academy of Actuaries, or a qualified loss reserve specialist, under criteria established by the National Association of Insurance Commissioners.

b. A copy of each examination of the risk retention group as certified by the commissioner or public official conducting the examination.

c. Upon request by the commissioner, a copy of any information or document pertaining to any outside audit performed with respect to the risk retention group.

d. Information as may be required to verify its continuing qualification as a risk retention group pursuant to Section 2(11) of this act.

(3) Taxation.

a. Each risk retention group shall be liable for the payment of premium taxes and taxes on premiums of direct business for risks resident or located within this state, and shall report to the commissioner the net premiums written for risks resident or located within this state. The risk retention group shall be subject to taxation, and any applicable fines and penalties related thereto, on the same basis as a foreign admitted insurer.

b. To the extent licensed agents or brokers are utilized pursuant to Section 12 of this act, they shall report to the commissioner the premiums for direct business for risks resident or located within this state which the licensees have placed with or on behalf of a risk retention group not chartered in this state.

c. To the extent that insurance agents or brokers are utilized pursuant to Section 12 of this act, any agent or broker shall keep a complete and separate record of all policies procured from each risk retention group, which record shall be open to examination by the commissioner, as provided in Section 27-2-20 of the Code of Alabama 1975. These records shall, for each policy and each kind of insurance provided thereunder, include the following:

1. The limit of liability.
2. The time period covered.
3. The effective date.

4. The name of the risk retention group which issued the policy.
5. The gross premium charged.
6. The amount of return premiums, if any.

(4) Compliance with Trade Practices Law. Any risk retention group, its agents, and representatives shall comply with the Trade Practices Law, Chapter 12 (commencing with Section 27-12-1), Title 27, Code of Alabama 1975, regarding deceptive, false, or fraudulent acts or practices. If the commissioner seeks an injunction regarding that conduct, the injunction shall be obtained from a court of competent jurisdiction.

(5) Examination Regarding Financial Condition. Any risk retention group shall submit to an examination by the commissioner to determine its financial condition if the commissioner of the jurisdiction in which the group is chartered and licensed has not initiated an examination or does not initiate an examination within 60 days after a request by the commissioner of this state. The examination shall be coordinated to avoid unjustified repetition and conducted in an expeditious manner and in accordance with the Examiner Handbook of the National Association of Insurance Commissioners.

(6) Notice to Purchasers. Every application form for insurance from a risk retention group, and every policy, on its front and declaration pages, issued by a risk retention group, shall contain in ten point type the following notice:

NOTICE

"This policy is issued by your risk retention group. Your risk retention group may not be subject to all of the insurance laws and regulations of your state. State insurance insolvency guaranty funds are not available for your risk retention group."

(7) Prohibited Acts Regarding Solicitation or Sale. The following acts by a risk retention group are prohibited:

a. The solicitation or sale of insurance by a risk retention group to any person who is not eligible for membership in the group.

b. The solicitation or sale of insurance by, or operation of, a risk retention group that is in hazardous financial condition or financially impaired.

(8) Prohibition on Ownership by an Insurance Company. No risk retention group shall be allowed to do business in this state if an insurance company is directly or indirectly a member or owner of the risk retention group, other than in the case of a risk retention group all of whose numbers are insurance companies.

(9) **Prohibited Coverage.** The terms of any insurance policy issued by any risk retention group shall not provide, or be construed to provide, coverage prohibited generally by statute of this state or declared unlawful by the highest court of this state whose law applies to that policy.

(10) **Delinquency Proceedings.** A risk retention group not chartered in this state and doing business in this state shall comply with a lawful order issued in a voluntary dissolution proceeding or in a delinquency proceeding commenced by a state insurance commissioner if there has been a finding of financial impairment after an examination under subdivision (5) of this section.

(11) **Penalties.** A risk retention group that violates this act will be subject to fines and penalties including revocation of its right to do business in this state, applicable to licensed insurers generally.

(12) **Operation Prior to Enactment of this Act.** In addition to complying with this section, any risk retention group operating in this state prior to enactment of this act shall, within 30 days after the effective date of this act, comply with subdivision (1)a. of this section.

Section 5. Compulsory Associations.

(a) No risk retention group shall be required or permitted to join or contribute financially to any insurance insolvency guaranty fund, or similar mechanism, in this state, nor shall any risk retention group, or its insureds or claimants against its insureds, receive any benefit from any fund for claims arising under the insurance policies issued by that risk retention group.

(b) When a purchasing group obtains insurance covering its **members' risks from an insurer, not authorized in this state or a risk retention group**, no risk, wherever resident or located, shall be covered by any insurance guaranty fund or similar mechanism in this state.

(c) When a purchasing group obtains insurance covering its members' risks from an authorized insurer, only risks resident or located in this state shall be covered by the Alabama Insurance Guaranty Association, subject to Chapter 42 (commencing with Section 27-42-1), Title 27, Code of Alabama 1975.

(d) Notwithstanding Article 2 (commencing with Section 27-26-20), Chapter 26, Title 27, Code of Alabama 1975, the commissioner may require or exempt a risk retention group from participating in any mechanism established or authorized under the law of this state for the equitable apportionment among insurers of casualty insurance losses and expenses incurred on policies

written through that mechanism. The risk retention group shall submit sufficient information to the commissioner to enable the commissioner to apportion on a nondiscriminatory basis the risk retention group's proportionate share of any losses and expenses.

Section 6. Countersignatures not Required. A policy of insurance issued to a risk retention group, or any member of that group, shall not be required to be countersigned as otherwise provided in Sections 27-3-28 or 27-7-28 of the Code of Alabama 1975.

Section 7. Purchasing Groups – Exemption from Certain Laws.

A purchasing group and its insurer or insurers shall be subject to all applicable laws of this state, except that a purchasing group and its insurer or insurers shall be exempt, in regard to casualty insurance for the purchasing group, from any law that would do any of the following:

- (1) Prohibit the establishment of a purchasing group.
- (2) Make it unlawful for an insurer to provide or offer to provide insurance on a basis providing, to a purchasing group or its members, advantages based on their loss and expense experience not afforded to other persons with respect to rates, policy forms, coverages, or other matters.
- (3) Prohibit a purchasing group or its members from purchasing insurance on a group basis described in subdivision (2) of this section.
- (4) Prohibit a purchasing group from obtaining insurance on a group basis because the group has not been in existence for a minimum period of time or because any member has not belonged to the group for a minimum period of time.
- (5) Require that a purchasing group must have a minimum number of members, common ownership or affiliation, or certain legal form.
- (6) Require that a certain percentage of a purchasing group must obtain insurance on a group basis.
- (7) Otherwise discriminate against a purchasing group or any of its members.
- (8) Require that any insurance policy issued to a purchasing group or any of its members be countersigned by an insurance agent or broker residing in this state.

Section 8. Notice and Registration Requirements of Purchasing Groups.

(a) A purchasing group which intends to do business in this state shall, prior to doing business, furnish notice to the commissioner which shall include all of the following:

- (1) Identify the state in which the group is domiciled.
- (2) Identify all other states in which the group intends to do business.
- (3) Specify the lines and classifications of liability insurance which the purchasing group intends to purchase.
- (4) Identify the insurance company or companies from which the group intends to purchase its insurance and the domicile of any company.
- (5) Specify the method by which, and the person or persons, if any, through whom insurance will be offered to its members whose risks are resident or located in this state.
- (6) Identify the principal place of business of the group.
- (7) Provide other information as may be required by the commissioner to verify that the purchasing group is qualified under Section 2(10) of this act.

(b) A purchasing group shall, within 10 days, notify the commissioner of any changes in any of the items set forth in subsection (a) of this section.

(c) The purchasing group shall register with and designate the commissioner, or other appropriate authority, as its agent solely for the purpose of receiving service of legal documents or process, for which a filing fee shall be determined by the commissioner, except that the requirements shall not apply in the case of a purchasing group which only purchases insurance that was authorized under the federal Products Liability Risk Retention Act of 1981, and:

(1) Which in any state of the United States:

- a. Was domiciled before April 1, 1986, and
- b. Is domiciled on and after October 27, 1986;

(2) Which:

- a. Before October 27, 1986, purchased insurance from an insurance carrier licensed in any state, and
- b. Since October 27, 1986, purchased its insurance from an insurance carrier licensed in any state; and

(3) Which was a purchasing group under the requirements of the Product Liability Risk Retention Act of 1981 before October 27, 1986.

(d) Each purchasing group that is required to give notice pursuant to subsection (a) of this section shall also furnish the information as may be required by the commissioner to do all of the following:

- (1) Verify that the entity qualifies as a purchasing group.
- (2) Determine where the purchasing group is located.
- (3) Determine appropriate tax treatment.

(e) Any purchasing group which was doing business in this state prior to the enactment of this act shall, within 30 days after the effective date of this act, furnish notice to the commissioner pursuant to subsection (a) of this section and furnish information, as may be required, pursuant to subsections (b) and (c) of this section.

Section 9. Restrictions on Insurance Purchased by Purchasing Groups.

(a) A purchasing group may not purchase insurance from a risk retention group that is not chartered in a state or from an insurer not admitted in the state in which the purchasing group is located, unless the purchase is effected through a licensed agent or broker acting pursuant to the surplus lines laws and regulations of the state.

(b) A purchasing group which obtains casualty insurance from an insurer not admitted in this state, or a risk retention group, shall inform each of the members of the group which have a risk resident or located in this state that the risk is not protected by an insurance insolvency guaranty fund in this state, and that the risk retention group or that insurer may not be subject to all insurance laws and regulations of this state.

(c) No purchasing group may purchase insurance providing for a deductible or self-insured retention applicable to the group as a whole. Coverage may provide for a deductible or self-insured retention applicable to individual members.

(d) Purchases of insurance by purchasing groups are subject to the same standards regarding aggregate limits which are applicable to all purchases of group insurance.

Section 10. Purchasing Group Taxation.

Premium taxes and taxes on premiums paid for coverage of risks resident, or located in this state by a purchasing group, or any members of the purchasing groups shall be both:

(1) Imposed at the same rate and subject to the same interest, fines, and penalties as that applicable to premium taxes and taxes on premiums paid for similar coverage from a similar insurance source by other insureds.

(2) Paid first by the insurance source, and if not by that source, by the agent or broker for the purchasing group, and if not by the agent or broker then by the purchasing group, and if not by the purchasing group then by each of its members.

Section 11. Administrative and Procedural Authority Regarding Risk Retention Groups and Purchasing Groups.

The commissioner is authorized to make use of any of the powers established under the insurance code of this state to enforce the laws of this state not specifically preempted by the Risk Retention Act of 1986, including the commissioner's administrative authority to investigate, issue subpoenas, conduct depositions and hearings, issue orders, impose penalties, and seek injunctive relief. With regard to any investigation, administrative proceedings, or litigation, the commissioner can rely on the procedural laws of this state. The injunctive authority of the commissioner, in regard to risk retention groups, is restricted by the requirement that any injunction be issued by a court of competent jurisdiction.

Section 12. Duty of Agents or Brokers to Obtain License.

(a) Risk retention groups.

No person, firm, association, or corporation shall act or aid in any manner in soliciting, negotiating, or procuring liability insurance in this state from a risk retention group unless the person, firm, association, or corporation is licensed as an insurance agent or broker in accordance with Chapter 7 (commencing with Section 27-7-1), Title 27, Code of Alabama 1975.

(b) Purchasing groups.

(1) No person, firm, association, or corporation shall act or aid in any manner in soliciting, negotiating, or procuring liability insurance in this state for a purchasing group from an authorized insurer or a risk retention group chartered in a state unless the person, firm, association, or corporation is licensed as an insurance agent or broker in accordance with Chapter 7 (commencing with Section 27-7-1), Title 27, Code of Alabama 1975.

(2) No person, firm, association, or corporation shall act or aid in any manner in soliciting, negotiating, or procuring liability insurance coverage in this state for any member of a purchasing group under a purchasing group's policy unless that person, firm, association, or corporation is licensed as an insurance agent or broker in accordance with Chapter 27 (commencing with Section 27-7-1) Title 27, Code of Alabama 1975.

(3) No person, firm, association, or corporation shall act or aid in any manner in soliciting, negotiating, or procuring liability

insurance from an insurer not authorized to do business in this state on behalf of a purchasing group located in this state unless the person, firm, association, or corporation is licensed as a surplus lines agent or excess line broker in accordance with Chapter 10 (commencing with Section 27-10-1), Title 27, Code of Alabama 1975.

(c) For purposes of acting as an agent or broker for a risk retention group or purchasing group, pursuant to subsections (a) and (b) of this section, the requirement of residence in this state shall not apply.

(d) Every person, firm, association, or corporation licensed, pursuant to the provisions of Chapter 7 (commencing with Section 27-7-1), Title 27, Code of Alabama 1975, on business placed with risk retention groups or written through a purchasing group, shall inform each prospective insured of the provisions of the notice required by subdivision (6) of Section 4 of this act in the case of a risk retention group and subsection (b) of Section 9 of this act in the case of a purchasing group.

Section 13. Binding Effect of Orders Issued in U.S. District Court.

An order issued by any district court of the United States enjoining a risk retention group from soliciting or selling insurance, or operating in any state, or in all states, or in any territory or possession of the United States, upon a finding that the group is in hazardous financial or financially impaired condition shall be enforceable in the courts of the state.

Section 14. County Self-Insurance Funds.

This act shall not apply to any liability self-insurance fund established by counties pursuant to Title 11, Chapter 30 of the Code of Alabama 1975.

Section 15. Rules and Regulations.

The commissioner may promulgate and enforce, and from time to time amend, the rules and regulations relating to risk retention groups as may be necessary to carry out this act.

Section 16. Severability. The provisions of this act are severable. If any part of this act is declared invalid or unconstitutional, that declaration shall not affect the part which remains.

Section 17. Effective Date. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved May 17, 1993

Time: 12:03 P.M.

Act No. 93-675

S. 14 – Senator Owens

AN ACT

To further provide for the examination and licensure procedures of the various insurance agents and companies and insurers in the formation, operation, and transactions of insurance business, as well as meet certain standards for accreditation set by the National Association of Insurance Commissioners, more specifically as follows:

(a) To further provide for the examination of insurers by the Commissioner of Insurance and others to revise the standards; and for these purposes to amend Section 27-2-21, Code of Alabama 1975, relating to examinations.

(b) To further regulate the insurance industry and any person, firm, association, or corporation who is a managing general agent of any type insurance; to authorize the Commissioner of Insurance to issue certain rules and regulations to implement and administer this act.

(c) To further regulate the property and casualty insurers and require a certificate of a qualified independent loss reserve specialist relating to loss and loss adjustment expense reserves in the annual report of those insurers.

(d) To provide further for the scope of coverage provided by the Alabama Life and Disability Insurance Guaranty Association and, except as specified, to restrict the coverage by the association to residents of the State of Alabama, and for this purpose to amend Section 27-44-3, Code of Alabama 1975; and

(e) To further regulate insurers; to require all domestic insurers and health maintenance organizations to become subject to the investment limitations and qualifications of Chapter 41, Title 27, Code of Alabama 1975, and for this purpose to amend Sections 27-41-1, 27-41-2, and 27-41-3, Code of Alabama 1975.

(f) Relating to insurance and insurance holding systems; to regulate business placed with a producer controlled property and casualty insurer; to limit the amount placed with the producer and provide for the liability of the controlling producer in the event of an insolvency by the controlled insurer and for that purpose to conform the Alabama law to the Business Transacted With Producer Controlled Property and Casualty Insurer Act, adopted by the National Association of Insurance Commissioners, and to define these transactions and business; to provide for certain disclosures, hearing processes, and penalties for prohibited acts and violations.

Be It Enacted by the Legislature of Alabama:

Section 1. The purpose of Section 2 of this act is to provide further for an effective and efficient system for examining the activities, operations, financial condition, and affairs of all persons transacting the business of insurance in this state and all persons otherwise subject to the jurisdiction of the Commissioner of Insurance by amending the current Alabama Insurance Code in such a way as to become substantially similar to the model law on examinations as adopted by the National Association of Insurance Commissioners. This act is intended to enable the commissioner to adopt a flexible system of examinations which directs resources as may be deemed appropriate and necessary for the administration of the insurance and insurance related laws of this state. These changes are made to meet the examination standards set by the National Association of Insurance Commissioners.

Section 2. Section 27-2-21, Code of Alabama 1975, is amended to read as follows:

“§27-2-21.

“(a) For the purpose of determining its financial condition, ability to fulfill its obligations and compliance with the law, the commissioner shall examine the affairs, transactions, accounts, records, and assets of each authorized insurer, and the records of surplus line brokers restricted to those matters under Section 27-10-29, including the attorney-in-fact of a reciprocal insurer insofar as insurer transactions are involved as often as the commissioner deems appropriate but shall, at a minimum, conduct an examination of every insurer licensed in this state not less frequently than once every five years. In scheduling and determining the nature, scope, and frequency of the examinations, the commissioner shall consider such matters as the results of financial statement analyses and ratios, changes in management or ownership, actuarial opinions, reports of independent certified public accountants, and other criteria as set forth in the Examiners’ Handbook adopted by the National Association of Insurance Commissioners and in effect when the commissioner exercises discretion under this section.

“(b) The commissioner shall in like manner examine each insurer applying for an initial certificate of authority to transact insurance in this state.

“(c) In lieu of an examination under this act of any foreign or alien insurer licensed in this state or applying for an initial certificate of authority, the commissioner may accept an examination report on the company as prepared by the Department of Insurance for the company’s state of domicile or port-of-entry state until January 1, 1994. Thereafter, the reports may only be accepted if: (1) the Department of Insurance was at the time of the examination accredited under the National Association of Insurance Commissioners’ Financial Regulation Standards and Accreditation Program, or (2) the examination is performed under the supervision of an accredited Department of Insurance or with the participation of one or more examiners who are employed by an accredited state Department of Insurance and who, after a review of the examination work papers and report, state under oath that the examination was performed in a manner consistent with the standards and procedures required by the accredited state Department of Insurance.

“(d) As far as practical, the examination of a foreign or alien insurer shall be made in cooperation with the insurance supervisory officials of other states in which the insurer transacts business.”

Section 3. As used in Section 3 to 9, inclusive, of this act, the following words shall have the following meanings, unless the context clearly indicates otherwise:

(1) **ACTUARY.** A person who is a member in good standing of the American Academy of Actuaries.

(2) **INSURER.** A person defined in subsections (2) and (3) of Section 27-1-2, Code of Alabama 1975.

(3) **MANAGING GENERAL AGENT.** In addition to the definition found in subsection (a)(4) of Section 27-7-1, Code of Alabama 1975, any person, firm, or association who does both of the following:

a. Manages all or part of the insurance business of an insurer (including the management of a separate division, department, or underwriting office).

b. Acts as an agent for an insurer whether known as a managing general agent, manager, or other similar term, who, with or without the authority, either separately or together with affiliates, produces, directly or indirectly, and underwrites an amount of gross direct written premium equal to or more than five percent of the policyholder surplus as reported in the last annual statement of the insurer in any one quarter or year together with one or more of the following activities related to the business produced:

1. Adjusts or pays claims in excess of an amount determined by the commissioner.

2. Negotiates reinsurance on behalf of the insurer.

c. Notwithstanding the above, the following persons shall not be considered as managing general agents for the purposes of this act:

1. An employee of the insurer.

2. A United States manager of the United States branch of an alien insurer.

3. An underwriting manager who, pursuant to contract, manages all the insurance operations of the insurer, is under common control with the insurer, subject to the Alabama Insurance Holding Company Systems Regulatory Act, Chapter 29 (commencing with Section 27-29-1) of Title 27 of the Code of Alabama 1975, and whose compensation is not based on the volume of premiums written.

4. The attorney-in-fact authorized by and acting for the subscribers of a reciprocal insurer or inter-insurance exchange under powers of attorney.

(4) **POLICYHOLDER SURPLUS.** The excess of assets over liabilities.

(5) **UNDERWRITE.** The authority to accept or reject risk on behalf of the insurer.

Section 4. (a) As to the kinds of insurance described in Section 27-7-2, Code of Alabama 1975:

(1) No person, firm, association, or corporation shall act in the capacity of a managing general agent with respect to risks located in this state for an insurer licensed in this state unless then licensed in this state as a managing general agent of the insurer.

(2) No person, firm, association, or corporation shall act in the capacity of a managing general agent representing an insurer domiciled in this state with respect to risks located outside this state unless then licensed in this state as a managing general agent of the insurer. Where applicable, the license may be a non-resident license pursuant to this act.

(b) As to the kinds of insurance described in Section 27-8-2, Code of Alabama 1975:

(1) No person, firm, association, or corporation shall act in the capacity of a managing general agent with respect to risks located in this state for an insurer licensed in this state unless then licensed as a managing general agent of the insurer and shall qualify and meet the requirements and qualifications of an agent pursuant to Chapter 8, Title 27 of the Code of Alabama 1975. These managing general agents shall not be required to take and pass an examination or be a resident of Alabama.

(2) No person, firm, association, or corporation shall act in the capacity of a managing general agent representing an insurer domiciled in this state with respect to risks located outside this state unless then licensed in this state as a managing general agent of the insurer and shall qualify and meet the requirements and qualifications of an agent pursuant to Chapter 8 of Title 27 of the Code of Alabama 1975. These managing general agents shall not be required to take and pass an examination or be a resident of Alabama.

(c) The fees required of general agents of property and casualty insurers under Section 27-4-2(a)(8), Code of Alabama 1975, shall also apply to licenses required by this section.

(d) The commissioner may require the managing general agent to maintain a bond in an amount acceptable to the commissioner for the protection of the insurer.

(e) The commissioner may require the managing general agent to maintain an errors and omissions policy.

Section 5. No person, firm, association, or corporation acting in the capacity of a managing general agent shall place business with an insurer unless there is in force a written contract between the parties that sets forth the responsibilities of each party and where both parties share responsibility for a particular function, specifies the division of such responsibilities, and that contains the following minimum provisions:

(a) The insurer may terminate the contract for cause upon written notice to the managing general agent. The insurer may suspend the underwriting authority of the managing general agent during the pendency of any dispute regarding the cause for termination.

(b) The managing general agent shall render accounts to the insurer detailing all transactions and remit all funds due under the contract to the insurer on not less than a monthly basis.

(c) All funds collected for the account of an insurer will be held by the managing general agent in a fiduciary capacity in a bank that is a member of the Federal Reserve System. This account shall be used for all payments on behalf of the insurer. The managing general agent may retain no more than three months estimated claims payments and allocated loss adjustment expenses.

(d) Separate records of business written by the managing general agent shall be maintained. The insurer shall have access and right to copy all accounts and records related to its business in a form usable by the insurer and the commissioner shall have access to all books, bank accounts, and records of the managing general agent in a form usable to the commissioner. The records shall be retained according to Section 27-7-33 of the Code of Alabama 1975.

(e) The contract may not be assigned in whole or in part by the managing general agent.

(f) The contract shall contain appropriate underwriting guidelines including the following:

- (1) The maximum annual premium volume.
- (2) The basis of the rates to be charged.
- (3) The types of risks that may be written.
- (4) Maximum limits of liability.
- (5) Applicable exclusions.
- (6) Territorial limitations.
- (7) Policy cancellation provisions.
- (8) The maximum policy period.

(g) The insurer shall have the right to cancellation or non-renewal of any policy of insurance subject to the applicable laws and regulations concerning the cancellation and non-renewal of insurance policies.

(h) If the contract permits the managing general agent to settle claims on behalf of the insurer:

- (1) All claims shall be reported to the company in a timely manner.

(2) A copy of the claim file shall be sent to the insurer at its request or as soon as it becomes known to the managing general agent that the claim:

a. Has the potential to exceed an amount determined by the commissioner or exceeds the limit set by the company, whichever is less.

b. Involves a coverage dispute.

c. May exceed the managing general agent's claims settlement authority.

d. Has been open for more than six months.

e. Is closed by payment of an amount set by the commissioner or an amount set by the company, whichever is less.

(3) All claim files shall be the joint property of the insurer and managing general agent. Upon an order of liquidation of the insurer, the files shall become the sole property of the insurer or its estate. The managing general agent shall have reasonable access to and the right to copy the files on a timely basis.

(4) Any settlement authority granted to the managing general agent may be terminated for cause upon the insurer's written notice to the managing general agent or upon the termination of the contract. The insurer may suspend the settlement authority during the pendency of any dispute regarding the cause for termination.

(i) Where electronic claims files are in existence, the contract shall address the timely transmission of the data.

(j) If the contract provides for a sharing of interim profits by the managing general agent, and the managing general agent has the authority to determine the amount of the interim profits by establishing loss reserves or controlling claim payments, or in any other manner, interim profits shall not be paid to the managing general agent until one year after they are earned for property insurance business and five years after they are earned on casualty business and not until the profits have been verified pursuant to Section 6 of this act.

(k) The managing general agent shall not:

(1) Bind reinsurance or retrocessions on behalf of the insurer, except that the managing general agent may bind facultative reinsurance contracts pursuant to obligatory facultative agreements if the contract with the insurer contains reinsurance underwriting guidelines including, for both reinsurance assumed and ceded, a list of reinsurers with which such automatic agreements are in effect, the coverages and amounts or percentages that may be reinsured and commission schedules.

(2) Commit the insurer to participate in insurance or reinsurance syndicates.

(3) Appoint any agent without assuring that the agent is lawfully licensed to transact the type of insurance for which he or she is appointed.

(4) Without prior approval of the insurer, pay or commit the insurer to pay a claim over a specified amount, net of reinsurance, which shall not exceed one percent of the insurer's policyholder's surplus as of December 31 of the last completed calendar year.

(5) Collect any payment from a reinsurer or commit the insurer to any claim settlement with a reinsurer without prior approval of the insurer. If prior approval is given, a report shall be promptly forwarded to the insurer.

(6) Permit its subagent to serve on the insurer's board of directors.

(7) Jointly employ an individual who is employed by the insurer.

(8) Appoint a sub-managing general agent.

Section 6. Insurers shall have the following duties:

(1) The insurer shall have on file an independent financial examination, in a form acceptable to the commissioner, of each managing general agent with which it has done business.

(2) If a managing general agent establishes loss reserves, the insurer shall annually obtain the opinion of an actuary attesting to the adequacy of loss reserves established for losses incurred and outstanding on business produced by the managing general agent. This is in addition to any other required loss reserve certification.

(3) The insurer shall periodically, and at least semi-annually, conduct an on-site review of the underwriting and claims processing operations of the managing general agent.

(4) Binding authority for all reinsurance contracts or participation in insurance or reinsurance syndicate shall rest with an officer of the insurer, who shall not be affiliated with the managing general agent.

(5) Within 30 days of entering into or terminating a contract with a managing general agent, the insurer shall provide written notification of the appointment or termination to the commissioner. Notices of appointment of a managing general agent shall include a statement of duties which the applicant is expected to perform on behalf of the insurer, the lines of insurance for which the applicant is to be authorized to act, and any other information the commissioner may request.

(6) An insurer shall review its books and records each quarter to determine if any agent has become, by operation of Section 3(3), a managing general agent as defined in that section. If the insurer

determines that an agent has become a managing general agent, the insurer shall promptly notify the agent and the commissioner of the determination and the insurer and the agent shall fully comply with the provisions of this act within 30 days of the notification.

(7) An insurer shall not appoint to its board of directors an officer, director, employee, subagent, or controlling shareholder of its managing general agents. This subsection shall not apply to relationships governed by the Alabama Insurance Holding Company Act, Chapter 29 (commencing with Section 27-29-1) of Title 27 of the Code of Alabama 1975.

Section 7. The acts of the managing general agent are considered to be the acts of the insurer on whose behalf it is acting. A managing general agent may be examined as if it were the insurer.

Section 8. (a) If the commissioner finds after a hearing conducted in accordance with Section 27-2-28 of the Code of Alabama 1975, that any person has violated this act, the commissioner may order:

(1) For each separate violation, a penalty in an amount of up to five thousand dollars (\$5,000).

(2) Revocation or suspension of the managing general agent's license.

(3) The managing general agent to reimburse the insurer, the rehabilitator, or liquidator of the insurer for any losses incurred by the insurer caused by a violation of this act committed by the managing general agent.

(b) The decision, determination, or order of the commissioner pursuant to subsection (a) of this section shall be subject to judicial review pursuant to Section 27-2-31 of the Code of Alabama 1975.

(c) No provision of this section shall affect the right of the commissioner to impose any other penalties provided for in the insurance law, rule, or regulation.

(d) No provision of this act is intended to or shall in any manner limit or restrict the rights of policyholders, claimants, and auditors.

Section 9. No insurer may continue to use the services of a managing general agent after midnight December 31, 1993, unless the insurer is in compliance with this act. Sections 3 to 9, inclusive, of this act may be cited as the "Alabama Managing General Agents Act."

Section 10. Every property or casualty insurer required to file an annual statement with the commissioner on March 1 of each year preceding, pursuant to Section 27-3-26 of the Code of Alabama 1975, shall include a statement of a qualified independent loss reserve specialist setting forth his or her opinion relating to loss and loss adjustment expense reserves. For the purposes of this section, a "qualified

independent loss reserve specialist" shall mean a person who is not an employee, principal, director, or indirect owner of the insurer and is a member of the Casualty Actuarial Society, or has such other experience as is acceptable to the commissioner to assure a professional opinion on the adequacy of loss and loss adjustment expense reserves.

Section 11. Section 27-44-3, Code of Alabama 1975, is amended to read as follows:

"§27-44-3.

"(a) This chapter shall apply to direct life insurance policies, disability insurance policies, annuity contracts, and contracts supplemental to life and disability insurance policies, and annuity contracts issued by persons licensed to transact insurance in this state at any time, except as limited by this section.

"(b) This chapter shall not apply to:

"(1) That portion or part of a variable life insurance or variable annuity contract not guaranteed by an insurer.

"(2) That portion or part of any policy or contract under which the risk is borne by the policyholder.

"(3) Any policy or contract or part thereof assumed by the impaired or insolvent insurer under a contract of reinsurance, other than reinsurance for which assumption certificates have been issued.

"(4) Any policy or contract issued by non-profit hospital and medical service plans, fraternal benefit societies, cooperative hospital associations, or health maintenance organizations.

"(5) A policy or contract providing coverage to persons not specified in subsection (c).

"(c) This chapter shall provide coverage for the policies and contracts specified in subsection (a) as follows:

"(1) To persons who, regardless of where they reside (except for non-resident certificate holders under group policies or contracts), are the beneficiaries, assignees, or payees of the persons covered under subdivision (2).

"(2) To persons who are owners of, or certificate holders under, covered policies or contracts, and who are residents, or are not residents, but only under all of the following conditions:

"a. The insurers which issued the policies or contracts are domiciled in this state.

"b. The insurers at the time of issuance of the policies or contracts did not hold licenses or certificates of authority in the state in which such persons reside.

"c. The persons are not eligible for coverage by a guaranty association of another state providing protection substantially similar to that provided by this chapter for residents of this state.

"(d) Any member insurer that has been declared insolvent and is placed under a final order of liquidation, rehabilitation, or conservation by a court of competent jurisdiction prior to the effective date of the act adding this subsection shall be subject to this chapter as it existed prior to the effective date of this act."

Section 12. The purpose of Section 13 of this act is to provide further for the regulation of insurers to require all domestic insurers and health maintenance organizations to become subject to the investment limitations and qualifications of Chapter 41 of the Insurance Code, to allow the Alabama Insurance Department to be eligible to become accredited under the National Association of Insurance Commissioners' Financial Regulation Standards and Accreditation Program.

Section 13. Sections 27-41-1, 27-41-2, and 27-41-3, Code of Alabama 1975, are amended to read as follows:

"§27-41-1.

"Except as provided in section 27-41-39, this chapter shall apply to all domestic insurers and health maintenance organizations.

"§27-41-2.

"As used in this chapter, the following terms shall have the respective meanings herein set forth, unless the context shall otherwise require:

"(1) ALABAMA INSURANCE CODE. Title 27 of this Code.

"(2) INSURER. The term shall have the meaning ascribed in section 27-1-2 and shall include health maintenance organizations.

"(3) PERSON. The term shall have the meaning ascribed in section 27-1-2.

"(4) COMMISSIONER and DEPARTMENT. The terms, respectively, shall have the meanings ascribed in section 27-1-2.

"(5) INVESTMENT. Any asset owned by an insurer.

"(6) ELIGIBLE INVESTMENT. Any investment permitted by sections 27-41-7 to 27-41-35, inclusive, provided the investment meets all the other requirements of this chapter.

"(7) DOMESTIC INSURER, FOREIGN INSURER, and ALIEN INSURER. The terms shall have the meanings ascribed in section 27-1-2 and shall include health maintenance organizations.

"(8) ADMITTED ASSET. Any asset of an insurer permitted by the commissioner of insurance to be taken into account in any determination of the financial condition of the insurer.

“§27-41-3.

“(a) Only eligible investments may be counted as admitted assets.

“(b) Every investment lawfully held by a life, disability, or burial insurer on January 1, 1978, and every investment which the life, disability, or burial insurer became obligated to make prior to January 1, 1978, which was a lawful investment for the insurer at the time made or at the time the insurer became obligated to make it shall be an eligible investment. Any particular investment held by an insurer on the effective date of this section or any amendment thereto, which was a legal investment at the time it was made, and which the insurer was legally entitled to possess immediately prior to the effective date, shall be deemed to be an eligible investment; however, any investment made after the effective date of this section shall be in compliance with the limitations and qualifications of this section.

“(c) All life, disability, or burial insurers shall within 90 days after January 1, 1978 file with the commissioner a written statement certified by its treasurer or chief investment officer, listing in the manner as to readily identify the same, all the investments or obligations for investments not otherwise eligible under this chapter, identifying each nonconforming investment and stating the terms and conditions of acquisition or proposed acquisition thereof.

“(d) All insurers, other than life, disability, or burial insurers, shall within 90 days after the effective date of this act, file with the commissioner a written statement certified by its treasurer or chief investment officer, listing in the manner as to readily identify the same, all the investments or obligations for investments not otherwise eligible under this chapter, identifying each nonconforming investment and stating the terms and conditions of acquisition or proposed acquisition thereof.

“(e) Eligibility of an investment shall be determined as of the date of its making or acquisition, except as stated in subsection (b) of this section.

“(f) Any investment limitation based upon the amount of the insurer's assets or particular funds shall relate to the value of the assets or funds as shown by the insurer's annual statement as of December 31 next preceding the date of the investment by the insurer or as shown by a current financial statement filed with and accepted as to content in writing by the commissioner.”

Section 14. Sections 15 to 19, inclusive, of this act may be cited as the “Alabama Business Transacted With Producer Controlled Property and Casualty Insurer Law.”

Section 15. For purposes of Sections 16, 17, 18, and 19 of this act, the following terms shall have the following meanings:

(1) **ACCREDITED STATE.** A state in which the Department of Insurance meets the minimum financial qualifications and regulatory standards promulgated and established, from time to time, by the National Association of Insurance Commissioners.

(2) **COMMISSIONER.** The Commissioner of Insurance.

(3) **CONTROL or CONTROLLED.** The same as defined in subsection (3) of Section 27-29-1, Code of Alabama 1975.

(4) **CONTROLLED INSURER.** A licensed insurer who is controlled, directly or indirectly, by a producer.

(5) **CONTROLLING PRODUCER.** A producer who, directly or indirectly controls an insurer.

(6) **LICENSED INSURER OR INSURER.** Any person, firm, association, or corporation duly licensed to transact a property and casualty insurance business in this state. For the purposes of this act the following are not licensed insurers:

a. A risk retention group as defined in the Superfund Amendments Reauthorization Act of 1986, Pub. L. No. 99-499, 100 Stat. 1613 (1986) and the Risk Retention Act (commencing with Section 3901 of Title 15, U.S.C., 1982 and 1986 of Supp. to Title 15, U.S.C.).

b. A residual market pool and a joint underwriting authority or association.

c. A captive insurer, which, for the purposes of this act, is an insurance company owned by another organization whose exclusive purpose is to insure risks of the parent organization and any affiliated company or, in the case of any group and association, an insurance organization owned by the insured whose only purpose is to insure risks to any member-organization, group member or affiliate of the member.

(7) **PRODUCER.** An insurance broker or brokers or any other person, firm, association, or corporation, when, for any compensation, commission, or other thing of value, the person, firm, association, or corporation acts or aids in any manner in soliciting, negotiating, or procuring the making of any insurance contract on behalf of another insured person, firm, association, or corporation. The term is not intended to include an exclusive agent or any independent agent acting on behalf of the controlled insurer and any subagent or representative of the agent, who acts in the solicitation of, negotiation for, or procurement or making of an insurance contract, if the agent is not also acting in the capacity of an insurance broker in the transaction in question.

Section 16. This act shall apply to any licensed insurer as defined in Section 15, either domiciled in this state or domiciled in a state that is not an accredited state but having in effect a substantially similar law. The Alabama Insurance Holding Company

System Regulatory Act, Chapter 29 (commencing with Section 27-29-1) of Title 27, Code of Alabama 1975, to the extent it is not superseded by this act, shall continue to apply to all parties within holding company systems subject to this act.

Section 17. (a) Unless there is a written contract between the controlling producer and the insurer approved by the board of directors of the insurer and specifying the responsibilities of each party, a controlled insurer shall not accept business from a controlling producer and a controlling producer shall not place business with a controlled insurer. The contract between a controlling producer and a controlled insurer shall, as a minimum, contain the following:

(1) A provision that, upon written notice to the controlling producer, the controlled insurer may terminate the contract for cause. The controlled insurer shall suspend the authority of the controlling producer to write business during any pending dispute regarding the cause for the termination.

(2) A provision requiring the controlling producer to give a detailed accounting to the controlled insurer on any material transaction, including information necessary to support all commissions, charges, and other fees received by, or owing to, the controlling producer.

(3) A provision requiring the controlling producer to send all funds due, under the terms of the contract, to the controlled insurer on at least a monthly basis. The contract shall require the due date to be fixed so that premiums or any installment collected are remitted no later than ninety days after the effective date of any policy placed with the controlled insurer under the contract.

(4) A provision requiring all funds collected for the account of the controlled insurer to be held by the controlling producer in a fiduciary capacity, in one or more appropriately identified bank accounts in a bank that is a member of the Federal Reserve System, in accordance with any applicable insurance law. Funds of a controlling producer, not required to be licensed in this state, shall be maintained in compliance with the requirements of the domiciliary jurisdiction of the controlling producer.

(5) A provision requiring the controlling producer to maintain separate identifiable records of business written for the controlled insurer.

(6) A provision prohibiting the controlling producer from assigning the contract in whole or in part.

(7) A provision that the rates and terms of the commissions, charges, and other fees of the controlling producer shall be no greater than those applicable to comparable business placed with

the controlled insurer by producers other than controlling producers. For purposes of this subsection and subsection (d), examples of "comparable business" includes the same lines of insurance, the same kinds of insurance, the same kinds of risks, similar policy limits, and similar quality of business.

(8) A provision that if the contract provides that the controlling producer, on insurance business placed with the insurer, is to be compensated contingent upon the insurer's profits on that business, the compensation shall not be determined and paid until at least five years after the premiums on liability insurance are earned and at least one year after the premiums are earned on any other insurance. In no event may the commissions be paid until the adequacy of the controlled insurer's reserves on remaining claims has been independently verified pursuant to the reporting requirements of subsection (f).

(9) A provision that the insurer may establish a different limit for each line or sub-line of business written by the controlling producer. The controlled insurer shall notify the controlling producer when the limit is approached and shall not accept business from the controlling producer if the limit is reached. The controlling producer shall not place business with the controlled insurer if it has been notified by the controlled insurer that the limit has been reached.

(10) A provision that the controlling producer may negotiate but may not bind reinsurance on behalf of the controlled insurer on business the controlling producer places with the controlled insurer, except that the controlling producer may bind facultative reinsurance contracts pursuant to obligatory facultative agreements if the contract with the controlled insurer contains underwriting guidelines including, for both reinsurance assumed and ceded, a list of reinsurers with which the automatic agreements are in effect, the coverages, and amounts, or percentages that may be reinsured, and commission schedules.

(11) The controlled insurer shall provide the controlling producer with its underwriting standards, rules, and procedures, and manuals setting forth the rates to be charged, and the conditions for the acceptance or rejection of risks. The controlling producer shall adhere to the standards, rules, procedures, rates, and conditions. The standards, rules, procedures, rates, and conditions shall be the same as those applicable to comparable business placed with the controlled insurer by a producer other than the controlling producer.

(b) This section shall apply if, in any calendar year, the aggregate amount of gross written premium on business placed with a controlled insurer by a controlling producer is equal to or greater than five percent of the admitted assets of the controlled insurer, as reported by the controlled insurer in the quarterly statement filed as of September 30 of the year immediately preceding.

(c) This section shall not apply if:

(1) The controlling producer:

a. Places insurance only with the controlled insurer, or only with the controlled insurer and one or more members of the holding company system of the controlled insurer, or only with the parent, affiliate, or subsidiary of the controlled insurer and receives no compensation based upon the amount of premium written in connection with the insurance, and

b. Accepts insurance placements only from nonaffiliated sub-producers and not directly from insureds, and

(2) The controlled insurer, except for insurance business written through a residual market facility such as the Automobile Assigned Risk Plan, accepts insurance business only from a controlling producer, a producer controlled by the controlled insurer, or a producer that is a subsidiary of the controlled insurer.

(e) Each controlled insurer shall have an audit committee of the board of directors composed of independent directors. The audit committee shall annually meet with management, the insurer's independent certified public accountants, and an independent casualty actuary, or other independent loss reserve specialist acceptable to the commissioner to review the adequacy of the insurer's loss reserves.

(f) The controlled insurer shall report the following:

(1) In addition to any other required loss reserve certification, the controlled insurer shall annually, on April 1 of each year, file with the commissioner an opinion of an independent casualty actuary (or other independent loss reserve specialist acceptable to the **commissioner**) **reporting** loss ratios for each line of business written and attesting to the adequacy of loss reserves established for losses incurred and outstanding as of year-end (including incurred but not reported) on business placed by the producer.

(2) At least annually, the controlled insurer shall report to the commissioner, the amount of the commissions to be paid to the producer, the percentage the amount represents of the net premiums written, and comparable amounts and percentage paid to noncontrolling producers for placements of the same kinds of insurance.

Section 18. The producer, prior to the effective date of the policy, shall deliver written notice to the prospective insured disclosing the relationship between the producer and the controlled insurer. Except that, if the business is placed through a subproducer who is not a controlling producer, the controlling producer shall retain records of a signed commitment from the subproducer that the subproducer is aware of the relationship between the

insurer and the producer and that the subproducer has or will notify the insured.

Section 19. (a) If the commissioner believes that the controlling producer or any other person has not materially complied with this act, or any regulation or order promulgated hereunder, after notice and opportunity to be heard, the commissioner may order the controlling producer to cease placing business with the controlled insurer.

(b) If it was found that because of the material non-compliance that the controlled insurer or any policyholder thereof has suffered any loss or damage, the commissioner may maintain a civil action or intervene in an action brought by or on behalf of the insurer or policyholder for recovery of compensatory damages for the benefit of the insurer or policyholder, or other appropriate relief.

(c) If an order for liquidation or rehabilitation of the controlled insurer has been entered, pursuant to Chapter 32 of Title 27, Code of Alabama 1975, and the receiver appointed under that order believes that the controlling producer or any other person has not substantially complied with this act, or any regulation or order promulgated under this act, and the insurer suffers any loss or damage because of the noncompliance, the receiver may maintain a civil action for recovery of damages or other appropriate sanctions or remedies for the benefit of the insurer.

(d) Nothing contained in this section shall affect the right of the commissioner to impose any other penalties provided for in the insurance law.

(e) This act shall be construed to preserve the rights of policyholders, claimants, creditors, or other third parties.

Section 20. The Commissioner of Insurance may adopt reasonable rules and regulations necessary for the implementation and the administration of this act.

Section 21. The provisions of this act are severable. If any part of this act is declared invalid or unconstitutional, that declaration shall not affect the part which remains.

Section 22. All laws or parts of laws which conflict with this act are repealed.

Section 23. Except as specifically otherwise provided, this act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved May 17, 1993

Time: 12:04 P.M.

Act No. 93-676

S. 100 – Senator deGraffenried

AN ACT

Authorizing the owner of goods for sale to bring a civil action to recover damages and expenses for the recovery of merchandise from any person who commits or attempts to commit a theft of the goods and specifying the damages and expenses for the recovery of merchandise therefor; and providing for a delayed effective date.

Be It Enacted by the Legislature of Alabama:

Section 1. The Legislature finds that shoplifting and employee theft have reached near epidemic proportions and that efforts to control these criminal offenses through traditional methods have proven unsuccessful and costly to both the general public and to business.

The existing criminal justice system is overcrowded and burdened thereby causing unreasonable delay. Continual use of the criminal justice system for shoplifting and employee theft offenses creates a further strain on an already overcrowded criminal docket, thereby requiring more tax revenue to pay for a continual expansion of the criminal justice system.

The continuous growth of shoplifting and employee theft cases in the face of traditional efforts to control these offenses represent added cost to retailers which, in turn, is passed on to the consumer in higher prices. Additionally, the merchandise lost to theft is not converted to profit in the form of sales for the retailer which results in millions of dollars in tax revenues lost.

Therefore, the Legislature deems that the utilization of an alternative form of deterrence to eliminate shoplifting and employee theft which avoids the stigma of a criminal record is more desirable than the present system.

Section 2. (a) An adult or emancipated minor who commits or attempts to commit a theft of property consisting of goods for sale on the premises of a merchant in violation of Sections 13A-8-3, 13A-8-4, or 13A-8-5, Code of Alabama 1975, shall be civilly liable to the merchant in an amount consisting of all of the following:

(1) The full retail value of the merchandise if not recovered in merchantable condition at its full retail price.

(2) Expenses for recovery of the merchandise in the amount of \$200.

(3) Reasonable attorney's fees and court costs not to exceed \$1000.

(b) Parents or legal guardians of an unemancipated minor under the age of 19 shall be liable in a civil action for the minor

who commits or attempts to commit a theft of property consisting of goods for sale on the premises of a merchant in violation of Sections 13A-8-3, 13A-8-4, or 13A-8-5, Code of Alabama 1975, to the merchant in an amount consisting of all of the following:

(1) The full retail value of the merchandise if not recovered in merchantable condition at its full retail price.

(2) Expenses for recovery of the merchandise in the amount of \$200.

(3) Reasonable attorney's fees and court costs not to exceed \$1000.

(4) Parents or legal guardians of an unemancipated minor under the age of 19 shall only be liable in a civil action in any calendar year for up to three offenses under the provisions of this act with a maximum liability of \$750 for each offense.

(c) A customer who orders a meal in a restaurant or other eating establishment, receives at least a portion thereof, and then leaves with the intent to defraud the eating establishment, without paying for the meal is subject to liability under this section, if such meal is received by the customer in a good and merchantable condition.

(d) Persons operating a certified foster home are not liable under this section for the acts of children not related to them by blood or marriage who are under their care, nor shall parents or legal guardians whose child is not living with them or where the juvenile violates Sections 13A-8-3, 13A-8-4 or 13A-8-5, Code of Alabama, 1975, with the intent to make the parent or legal guardian liable, be held liable under this act.

Section 3. (a) A conviction or a plea of guilty to the criminal offense of theft of property as defined in Title 13A, chapter 8, Code of Alabama 1975, is not a prerequisite to the bringing of a civil suit, obtaining a judgment, or collecting that judgment under this act.

(b) The fact that a merchant may bring a civil action against an individual as provided in this act shall not limit the right of the merchant to demand, in writing as set out in Section 3(c) below, that a person who is liable for damages and penalties under this act remit the damages and penalties prior to the consideration of the commencement of any legal action.

(c) The demand letter must be prepared and include the following:

On (insert date), you were apprehended for taking possession of, without paying for, merchandise belonging to (name of retailer/merchant).

Under Alabama Statute, a retailer/merchant is granted a civil cause of action against the person who intentionally deprives or intends to deprive a retailer/merchant of any merchandise without paying for it. The statute further provides that, separate from, and in addition to, any criminal action arising from your conduct, you may be held civilly liable for:

- (a) Cost of merchandise, if damaged;
- (b) Expenses for the recovery of the merchandise of \$200; and
- (c) Court costs and reasonable attorneys' fees.

This letter represents a demand from you for \$(amount) as a means of satisfying this civil matter.

We do not wish to file a civil action against you. However, if we do not receive payment within thirty (30) days from the date of this letter, we will make every effort to enforce our rights under this statute, which may include a civil court action.

Section 4. An action for recovery of damages and penalties under this act may be brought in any court of competent jurisdiction, including the small claims division of a district court in the county where the merchant is located, if the person or the parent or legal guardian of the unemancipated minor who committed the theft offense fails to make payment to the merchant of the amount specified in the demand within 30 days after the date of service of the written demand upon him or her, if the total damages do not exceed the jurisdictional limit of the small claims division.

Section 5. No attorney's fees shall be charged or collected unless a civil action has been filed under the provisions of this act.

Section 6. This act shall not be construed to prohibit or limit any other course of action which a merchant may have against a person who unlawfully takes merchandise from the merchant's premises. Enforcement of this act is not a violation of Alabama Code Section 13A-10-7.

Section 7. The provisions of this act are severable. If any part of this act is declared invalid or unconstitutional, such declaration shall not affect the part which remains.

Section 8. This act shall become effective on the first day of the third month next following its passage and approval by the Governor or its otherwise becoming a law.

Approved May 17, 1993

Time: 12:05 P.M.

Act No. 93-677

S. 422 – Senator Foshee

AN ACT

To revise the present bail system, by establishing four kinds of bail, judicial public bail, cash bail, property bail, and professional surety bail, and to establish rules, regulations, and laws to guarantee that all persons, regardless of their financial or social status, shall not needlessly be detained pending their appearance to answer criminal charges; to establish a more lenient and secure form of property bail; to establish laws that guarantee speedy release on bail; and to establish laws that ensure the payment to the State of Alabama and its subdivisions of monies owed from defaults of bail.

Be It Enacted by the Legislature of Alabama:

ARTICLE I

GENERAL PROVISIONS

Section 1. This act shall be known and may be cited as “The Alabama Bail Reform Act of 1993.”

Section 2. Definitions.

As used in this act, the following words shall have the following meanings:

(1) **APPEARANCE BOND.** An appearance bond is an undertaking to pay the clerk of the circuit, district, or municipal court, for the use of the State of Alabama or the municipality, a specified sum of money upon the failure of a person released to comply with its conditions.

(2) **JUDICIAL OFFICER.** Any supreme court, appellate court, circuit court, district court, or municipal court judge or any magistrate of any court in this state.

(3) **PROFESSIONAL BAIL COMPANY.** A person, individual proprietor, partnership, corporation, or other entity, other than a professional surety company, that furnishes bail or becomes surety for a person on an appearance bond and does so for a valuable consideration.

(4) **PROFESSIONAL BONDSMAN.** An individual person or agent employed by a professional surety company or professional bail company to solicit and execute appearance bonds or actively seek bail bond business for or on behalf of a professional surety company or a professional bail company.

(5) **PROFESSIONAL SURETY COMPANY.** An insurance company, domestic or foreign corporation, or association engaged in the business of insurance, or a surety with a bail line of insurance to which has been issued a certificate of authority or certificate of compliance by the Alabama Department of Insurance to

execute appearance bonds or bail bonds in criminal cases in the State of Alabama.

Section 3. Definitions and Purpose of Bail.

As used in this act, "bail" is the release of a person who has been arrested and is being held in the custody of the State of Alabama or one of its subdivisions for the commission of a criminal offense. The primary purpose of bail is to procure the release of a person charged with an offense upon obtaining assurance, with or without security, of the defendant's future appearance in court.

Section 4. Order and Amount of Bail.

Admission to bail is the order of a judicial officer of any court of the State of Alabama, or one of its subdivisions, that the defendant be discharged from actual custody on bail. Judicial officers of all courts in the State of Alabama shall see that every defendant arrested and in custody has an opportunity to give bail, in cases in which the defendant is entitled to bail and in cases pending before the court, and shall see that the amount of bail is established. The amount of bail shall be set in the amount that the judicial officer feels, in his or her discretion, is sufficient to guarantee the appearance of the defendant. Bail amounts shall not exceed the statutory limits otherwise set out in the laws of this state. The amounts of bail may be set by a judicial officer in a standard bail schedule as prescribed by the judge or pursuant to the bail schedule promulgated by Supreme Court rule.

Section 5. Order of Bail to be Affixed to Warrants.

Judicial officers shall see that the amount of bail is affixed to any warrants of arrests issued by the judicial officer at the time of their issuance for which the defendant is arrested and taken into custody. If arrested for a capital offense for which the defendant is not entitled to release on bail, the judicial officer shall take care to see that "no bail" is affixed on the warrant. Judicial officers may delegate the affixation to lawful employees of the court, but the amount shall be set by the judicial officer.

Section 6. Order of Bail in Warrantless Arrest Cases.

In cases where a defendant is arrested without a warrant and taken into custody and there is no standard bail schedule prescribed by the presiding judge of the court of jurisdiction for the amounts of bail for such arrests without warrants, then the arresting officer shall, as soon as possible, contact a judicial officer for an order of bail. If the arresting officer is unable to contact the judicial officer having jurisdiction of the case, the arresting officer may contact any judicial officer having the authority to set bail in that judicial circuit to issue the order of bail. If no judicial officer has

issued an order of bail within 24 hours of the arrest of defendant, then the bail shall be set by operation of law and the amount of bail shall be that amount prescribed as the minimum amount established by the bail schedule adopted by Supreme Court rule. Provided, however, in violation and misdemeanor cases the minimum amount of bail shall be three hundred dollars (\$300) for each offense charged. The judicial officer may also fix the amount of bail on the indictment.

Section 7. Illegal Commitment.

Except in capital cases where there is no right to release on bail, no person or defendant shall be committed to any jail in the State of Alabama on a warrant unless there is an amount of bail affixed to the warrant. No person or defendant shall remain in jail anywhere in this state for more than 24 hours for any felony or misdemeanor case without an order of bail, unless bail is not authorized by law.

Section 8. Who May or Shall Accept, Take, and Approve Bail and Under What Circumstances.

(a) Judges of any court within the State of Alabama may accept, take, and approve bail within the jurisdiction of their respective courts.

(b) Circuit, district, and municipal court clerks, including magistrates, may accept, take, and approve bail within the jurisdiction of their respective courts.

(c) Only judicial officers and circuit, district, and municipal court clerks or a designee of the court may accept and approve appeal bonds and cash bonds. Provided, however, that any person designated by the court to receive cash bonds, shall be bonded to receive court monies and have the written approval of their chief administrative officer. Clerks of the courts of Alabama may delegate to their employees the right to accept and approve appeal bonds and cash bonds.

(d) Sheriffs of the state and chiefs of police having custody of a defendant may accept, take, and approve property or professional surety bail. The authority may be delegated to their deputies and officers.

(e) The judicial officers and persons in subsections (a), (b), (c), and (d) shall accept and shall release the defendant when bail meets the requirements as set out in Article X, applying to professional surety. The judicial officers and persons in subsection (c) shall accept, approve, and release the defendant when the bail meets the requirements as set out in Article IX, applying to cash bail. The judicial officers and persons in subsections (a), (b), (c), and (d) may

accept, approve, and release the defendant when the officer or person, as designated, is of the opinion the bail meets the requirements as set out in Article VIII of this act, applying to property bail.

Section 9. Bail as a Matter of Right.

In all cases of misdemeanors and felonies, unless otherwise specified, the defendant is, before conviction, entitled to bail as a matter of right. All sheriffs and police chiefs of this state shall ensure that one of their officers or themselves are available to approve and accept bail 24 hours each day, seven days a week, except during the hours the clerks of the courts provide personnel for bail acceptance and approval.

Section 10. Bail in Probation Violation Cases.

In cases where the defendant has been placed on, or granted, probation and is arrested on a probation violation warrant, it shall be discretionary with the court having jurisdiction as to whether bail is granted and in what amount.

Section 11. Professional Bondsmen - Right to Interview.

Sheriffs, chiefs of police, jailers, or other law enforcement officers having custody of defendants who have bail set, shall, upon the request of the defendant or upon request of a professional bondsman, provide a place of privacy for the defendant to be interviewed by a professional bondsman.

ARTICLE II

FOUR KINDS OF BAIL AND THEIR DEFINITIONS

Section 12. Kinds of Bail.

For persons arrested and taken into custody, there shall be **four kinds of bail used in this state. No other form of bail may be approved and accepted by any judicial officer, court clerk, magistrate, or any other person designated to accept and approve bail as stipulated in Article I, Sections 1 to 11, inclusive. The four kinds of bail shall be judicial public bail, cash bail, property bail, and professional surety bail. Their definitions are as follows:**

(1) CASH BAIL.

Cash bail is when the defendant or some person on behalf of the defendant deposits cash in an amount equal to a part or the total sum of the bail as set by the judicial officer to the clerk of the court having jurisdiction over the case. Acceptance of cash bail shall conform to Article IX.

(2) JUDICIAL PUBLIC BAIL.

Judicial public bail is the release of any defendant without any condition of an undertaking relating to, or a deposit of, security. Such

bail shall be granted to persons subjected to custodial arrest only by a judicial officer having jurisdiction over the defendant and in accordance with the procedures established in Article VII of this act.

(3) PROFESSIONAL SURETY BAIL.

Professional surety bail is when a defendant is released on bail by having a professional surety or professional bail company execute a bond on behalf of the defendant and becoming surety on the bail. Such companies shall meet the qualification requirements of Article X.

(4) PROPERTY BAIL.

Property bail is when a defendant is released on bail by having at least one or more property owners that own property in the State of Alabama, execute or become bail or surety for the defendant. Such property owners shall qualify and meet requirements applying to property bail as set out in Article VIII.

ARTICLE III

BOND FORMS - ENTRY AND RETURN

Section 13. Bond Forms.

The Supreme Court of Alabama shall prescribe the different forms used for bail bonds and shall publish the forms in the Alabama Rules of Criminal Procedure. The Supreme Court may change the forms from time to time as the court deems necessary but the forms and their terms shall conform to the terms of this act or any other laws of the State of Alabama.

ARTICLE IV

EFFECT OF UNDERTAKING AND DISCHARGE OF BAIL

Section 14. Effect of Undertaking: To What Extent Binds Parties Thereto.

The undertaking of bail binds the parties thereto, jointly and severally, for the appearance of the defendant in court on the day fixed in the bond or undertaking, from day to day of such session, and from day to day of each session thereafter, until the defendant is discharged by law, and if the trial is removed to another county, for the appearance of the defendant from day to day of each session of the court to which the defendant is removed until discharged by law.

Section 15. Obligation of Sureties Continues During Trial.

The obligation of the sureties continues throughout every stage of trial, from the time the defendant is entered thereon until

the rendition of the verdict by the jury or judge. The finding of the defendant guilty by a jury or judge discharges the sureties. The obligation of the sureties are also discharged when the judge takes any of the following actions:

- (1) Sentences the defendant.
- (2) Grants the prosecutor's motion to nol pros the case.
- (3) Dismisses the case.
- (4) Issuance of any order to the defendant to attend driving-under-the-influence school, mental health counseling, or any similar order of which the court would only have had the authority to do so, if there had been an adjudication of guilt or in cases where there has been an adjudication of guilt.
- (5) Issuance of any order of restitution.
- (6) Announcement or order of sentence prior to any probation determination.

Section 16. Obligation of Sureties in Probation Cases.

The obligation of sureties is continued beyond the finding of a guilty verdict by the judge or by a jury in cases where the maximum sentence, set out by law, does not exceed 10 years and where the court desires to continue the case for a probation hearing so long as the court has not announced the sentence to be imposed or sentenced the defendant in any form as set out by law. In such cases, the obligation of the sureties is continued until there has been a determination and order by the court of denying or granting probation. In cases where the maximum sentence as set out by law is less than 10 years, and the court has imposed a sentence, the sureties, may continue their obligation on **such bail beyond the findings or rendering of the verdict but such an agreement shall be entered on the docket or case summary sheet and the surety shall execute their name or names by the entry.**

Section 17. Surrender of Principal in Open Court.

When the defendant is before the court pertaining to the case(s), the sureties of such bail may surrender the defendant in court by notifying the judge that it is their desire to surrender the defendant. The judge shall then order the sheriff, or other officer who has the duty of taking defendants into custody after conviction, to take custody of the defendant. In such event, the surety is not required to produce a bondsman's warrant or certified copy of bond to the court.

Section 18. Authorized Arrest of Defendant by Surety and Exoneration of Bail Prior to Conditional Forfeiture.

The sureties of bail may, at any time before a conditional forfeiture is entered against them, exonerate themselves by surrendering

the defendant to the jail having the authority of keeping custody of prisoners of the court having jurisdiction of defendant's case. For that purpose, the surety may arrest the defendant on a bondsman's warrant at any place in the state, or may authorize another person to arrest the defendant by an endorsement in writing on the warrant. The bondsman's warrant shall be issued as required by this act and a certified copy of the undertaking shall be attached thereto.

Section 19. Arrest of Defendant by Surety After Conditional Forfeiture.

After the entry of a conditional forfeiture against any surety on an undertaking of bail, the surety may arrest the defendant as provided in Section 18, but the arrest and delivery of the defendant to the authorized jail as stated in Section 18 shall not exonerate the surety unless, in the judgment of the court, a good and sufficient cause is given for the failure of the defendant to appear at the time the conditional judgement was entered.

Section 20. Surrender of Defendant to His or Her Original Custodians Necessary to Exonerate Bail; When New Bail is Allowed.

To exonerate the bail, the surrender of the defendant, other than that in Section 17, shall be made to the original custodian of the county or municipality in which the court is held and to which the defendant is bound to appear, or to which the trial has been removed. If there is no warrant of arrest pending for the defendant's arrest, then the original approving officer may discharge the defendant on his or her giving new bail in the same amount.

Section 21. Substitution of Bail.

After a defendant has been released on either one of the four different types of bail, as set out in Article II, Section 12, and the defendant desires to substitute one form of bail for another, the defendant may do so by giving such bail to the clerk of the court having jurisdiction of the case. The clerk shall approve the bail being substituted so long as it conforms with this act.

Section 22. Bail Not Discharged by Irregularities or by Want of Qualifications.

No bail shall be discharged by reason of the want of qualifications required in this act, by reason of there not being the requisite number of bail, by reason of any agreement other than is expressed in the undertaking, by reason of the infancy, coverture, lunacy, or any other incapacity of any of the parties thereto, because the defendant has not joined in the same, or because the undertaking of bail is not taken and approved by the proper officer where the defendant is released from custody on approval of such undertaking of bail.

Section 23. Bondsman's Process - Detainer.

In instances in which the surety or sureties have in their possession a bondsman's process for the defendant and the surety wishes to place a detainer against the defendant with the officer having custody of the defendant, all law enforcement officers of the State of Alabama, or its subdivisions, who have custody of any defendant under bail within the terms of this act, shall accept the bondsman's process as a detainer and hold the defendant in custody until the case pending against the defendant in the jurisdiction having custody, has been discharged or until the defendant is authorized to be released from custody by other means set out by law. Upon discharge or release, the officer having custody shall notify the surety that the defendant is ready to be released and the surety shall arrest the defendant and return the defendant to the court of jurisdiction. After the officer has given the surety notice of the release, the surety shall appear before the officer to receive the defendant within 24 hours or the defendant shall be released and detainer cancelled.

Section 24. Surety Discharged - Failing to Accept Detainer.

In all cases where any law enforcement officer, as described in Section 23, who has custody of a defendant for which a surety presents to the officer a bondsman's process in order to place a detainer on the defendant, refuses to accept and place a detainer on the defendant or in detainer cases where the defendant is released and the surety is not notified or given the opportunity to arrest the defendant as set out in Section 23, the surety shall be exonerated of all liability on the bail by the court having jurisdiction over the bail.

ARTICLE V

ARREST BY PRINCIPAL'S SURETIES, PROCEDURE OF ARREST, BONDSMAN'S PROCESS

Section 25. Bondsman's Process.

A bondsman's process is that document which is issued by the clerk of the court that has jurisdiction over the defendant and sureties for the arrest of the defendant.

Section 26. When the Clerk Shall Issue a Bondsman's Process.

The clerk of the court having jurisdiction over the defendant shall issue a bondsman's process to the sureties on such bail upon their request. The request may be made by any one of the sureties. Before the issuance of the process, the clerk shall determine if the case is still open and the defendant and the sureties have not been discharged by law.

Section 27. Return of Bondsman's Process.

(a) All bondsman's processes, when executed by sureties or other lawful authorized persons, shall be returned by the sheriff, chief of police, or other authorized law enforcement officer to the clerk of the court from which they were issued once the defendant is returned to the custody of the court of jurisdiction with the proper return thereon endorsed.

(b) If the bondsman's process is executed, the return shall be made within five days after service.

(c) When any writ of arrest or other warrant issued by the clerk of the court, in the same case as a bondsman's process, to any law enforcement officer and the warrant has been executed and returned to the clerk of the court, the clerk shall notify the surety which obtained the bondsman's process, and if the bondsman's process has not been executed at the time of the notice, then the surety shall return the process to the clerk of the court within five days and the surety shall endorse thereon, "not executed"; or the surety after notice from the clerk, if the surety desires to be relieved of further obligation of bail, shall surrender the defendant by executing the bondsman's process and producing it to the jailor having custody of the defendant. The sheriff or chief of police shall return it to the clerk as specified in subsection (a).

(d) In any case where the clerk of the court has issued a bondsman's process to the surety and the case is disposed of by the court or by operation of law, the clerk of the court shall notify the surety to whom the process was issued and the surety shall return the process to the clerk of the court within five days and endorse thereon, "not executed."

(e) Any surety who fails to comply with subsections (c) and (d) within the prescribed time, may be compelled to make the return by attachment and forfeit to the state or municipality fifty dollars (\$50). The fifty dollars (\$50) shall be paid to the clerk within three days notice of the default from the clerk. If the penalty is not paid within three days, the clerk shall not issue any further bondsman's processes to the surety until it is paid.

Section 28. The clerk shall see that all bondsman's processes have a certified copy of the undertaking attached to them. If there has been a conditional forfeiture taken by the court, then the clerk shall attach a copy of the conditional forfeiture to the warrant. There shall be no charge to the sureties for the issuance of a bondsman's process.

Section 29. Form for Bondsman's Process.

The following shall be substantially the form to be used for a bondsman's process.

BONDSMAN'S PROCESS

STATE OF ALABAMA

COUNTY OF _____ .

(or)

CITY OF _____ .

WHEREAS, the Sureties on the bail of the defendant _____, in case number _____, have expressed their desire to surrender the defendant to the custody of _____ of (City or County) _____, Alabama, and such desire has been expressed to the clerk of the _____ Court of the City/County of _____, Alabama, and,

WHEREAS, the clerk has checked the records and case number _____ is still pending and the defendant nor his or her sureties have been discharged of their obligations, or the records of case number _____ reflect that the defendant has failed to appear on the obligation of bail as required and a warrant has been issued for the arrest of the defendant.

NOW, THEREFORE, this document is issued, as required by law, and the document gives the right to the Sureties (bondsmen) to arrest the defendant, _____ at any place in the State of Alabama, or the sureties may authorize another person to arrest the defendant by an endorsement in writing on this document or attached to this document and the surety or bondsman shall forthwith, after the arrest, take the defendant to the _____ jail of _____, custodian thereof.

Executed this _____ day of _____, 19____ .

CLERK OF COURT

SEAL:

Bondsman Return

On this _____ day of _____, 19____, I

_____ agent for _____

surrender the above named defendant to the _____

_____ jail of _____ .

Time: _____

Section 30. Arrest of Principal by Out-of-State Surety.

All bondsmen or sureties from out of the State of Alabama who come to this state to make an arrest shall be exempt from having a

bondsman's process to arrest a person for which he or she is a surety on bail in another state; but he or she shall have a certified copy of the undertaking of bail for which he or she is surety. His or her right to arrest shall otherwise be in conformity with the common law.

ARTICLE VI

FORFEITURE - PROCEEDINGS THEREON

Section 31. Cash Bail - Undertaking of Bail: Basis Of and When Forfeited.

The basis of all undertakings of bail, whether upon a warrant, writ of arrest, suspension of judgment, writ of error, or in any other case, is to ensure the appearance of the defendant in court, and the undertaking is forfeited by the failure of the defendant to appear.

If, by reason of the neglect of the defendant to appear, money is deposited as cash bail and is forfeited and the forfeiture is not discharged or remitted, the clerk with whom it is deposited shall, at the end of 30 days, unless the court has before that time discharged the forfeiture, pay over the money deposited to the officer, official, or employee authorized by law to receive fines levied by the court. The court shall then, without any notice to defendant, render judgment absolute for the entire sum deposited and the money shall then become public money of the State General Fund or in bail forfeiture cases pending in the municipal courts such sums shall become public money of the municipality.

Section 32. Proceeding in Forfeiture of Bail - Not Cash - Conditional Forfeitures Order.

(a) When a defendant fails to appear in court as required by the undertaking of bail and no sufficient excuse has been provided to the court prior to the hearing, the court shall order a conditional forfeiture and show cause order against the defendant and the sureties of the bail. The court shall notify defendant and sureties of the order as set out in this article. The defendant or sureties, or both, shall file a written response with the clerk of the court within 28 days of the date of service of the notice why the bond should not be forfeited. If a written response is filed within the time allowed and the court is of the opinion the written response is sufficient, the court shall set aside the conditional forfeiture. If the court is of the opinion the written response is not sufficient, the court shall set a hearing to determine whether the bond should be forfeited. The hearing shall not be set less than 90 days of the issuance of the conditional forfeiture order. If no written response has been filed after 28 days from the date of service of the notice,

the court may enter an appropriate order or final judgment forfeiting all or part of the amount of the bond which shall be enforceable as any civil judgment. The court may take into consideration the circumstances provided to the court and continue any final forfeiture hearing to another day and time allowing the sureties more time to apprehend the defendant.

(b) When an undertaking of bail is forfeited by the failure of the defendant to appear as required, except when money is deposited as cash bail, a conditional judgment shall be rendered by the court in favor of the state or its subdivisions, for the use of the proper city, county, or state, against the parties to the undertaking for the sum thereon expressed, which judgment may be substantially as follows:

(State of or City of) _____

Charge: _____

vs

Case No. _____

A.B. _____

C.D. _____

E.F. (Sureties) _____

It being known to the court that A.B., together with (Sureties) _____, agreed to pay the State of Alabama (or City of _____,) _____ Dollars (the sum specified in the undertaking), unless A.B. appeared at the time and place mentioned and fixed in the bond or undertaking to answer in this case and A.B. having failed to appear at the time and place mentioned in the bond or undertaking, it is therefore ordered by the Court that the State of Alabama (or City of _____,) for the use of _____ State (or City), recover of the defendant and sureties on said undertakings, the sum of _____ Dollars (the sum specified in the undertaking), unless they file a written response and show cause why this judgment should not be made absolute within 28 days of the date of service of this conditional forfeiture order.

Section 33. Conditional Forfeiture Notice to Defendant and Sureties.

A notice of the rendition of the judgment set forth in Section 32 shall be issued by the Clerk of the court and served according to the terms as established in this article within 90 days of the court's conditional forfeiture order to the defendant and sureties. The notice may be in the following form:

STATE OF ALABAMA

(or City of _____)

Defendant

vs

_____ County

Surety

Case No. _____

Surety

Charge: _____

Conditional Forfeiture Notice

To: _____ Court

Defendant

Surety

You are hereby notified that your name appears as a surety on the bond in the above styled case. This case was called for trial on _____ (date) and the defendant was not present to answer. Therefore, a conditional forfeiture of _____ dollars was entered against you.

You shall file a written response within 28 days after you receive this notice and show cause to the court why this bond amount and the court cost incident to this forfeiture should not be made final.

If no action on your part is taken 28 days after the date you receive this notice, a final forfeiture may be entered against you by the court. The sheriff shall collect the amount of the bond and court cost from you or levy on your property to satisfy the forfeiture case. If you file a written response and the court is of the opinion your written response is not sufficient to set aside the conditional forfeiture, then the court shall set a final forfeiture hearing date and you will be notified at the address provided on the response.

This bond forfeiture is a court case against you separate from the defendant's criminal case. The court has also ordered that the defendant be re-arrested in the original case.

Date issued: _____ By _____
Clerk

Section 34. Provisions of Sureties Address for Service.

It shall be the sole responsibility of any defendant or surety on bail to notify in writing the clerk of any court to which bail is

returnable of the proper address for any service or notices and if the address is changed, then a new written notice is required by the defendant or sureties. Any address provided on the bond form executed by the defendant or sureties shall be the written notice to the clerk.

Section 35. Service of Forfeiture Notice.

A conditional forfeiture notice may be served by any law enforcement officer, at the law enforcement officer in the same manner as a summons in a civil action, except that service may not be by publication. At the law enforcement officer's discretion and expense, the notice may be served by certified mail, requiring a signed receipt or some equivalent thereof. In the event the notice is served by certified mail, return of the receipt properly signed shall be prima facie evidence of service. The notice required by this subsection must be returned by the person serving it, with his proper return endorsed thereon, within twenty-eight days of the date of issuance or within five days of service, whichever period of time is shorter.

Section 36. Returns "Not Found" or Certified Mail Returned.

If the notice is not served on any of the parties to the undertaking, such other notices as are necessary, may, from time to time be issued, but two returns of "not found" by the proper officer are equivalent to personal service, unless one of the parties shows evidence that such "not found" service was not diligently executed by the officer or the officer did not attempt to serve the proper party as prescribed by law. If service was by certified mail and is returned without a signature of acceptance, then the clerk shall reissue it to be served by an officer as specified in Section 35 and a return of the service "not found" by the proper officer is equivalent to personal service.

Section 37. Failure to Issue and Serve Conditional Forfeiture in 90 Days.

In forfeiture cases where the clerk of the court has failed to issue the conditional forfeiture notice as stipulated in Section 33 and where there has been no service as set out in Section 35 made within 90 days of the order of the court as set out in Section 32, and where the sureties have complied with Section 34, then the sureties shall be discharged from all liability of the bail and the conditional judgment shall be set aside against such sureties.

Section 38. Conditional Judgment Set Aside, Reduced, or Made Absolute.

If the defendants appear and show sufficient cause for the default to be determined by the court, the conditional judgment shall be set aside. If the excuse is not sufficient, or if the defendant

or sureties fail to appear at the final forfeiture hearing, the judgment shall be made absolute for the entire sum expressed in the undertaking, or any portion thereof according to the circumstances.

Section 39. Conditions for Which It Shall Be Mandatory for the Court To Set Aside Forfeiture.

The court shall set aside the conditional forfeiture in its entirety for the following reasons or under the following circumstances:

(1) If the sureties can show that the defendant was hospitalized at the time he or she was to appear in court, or if the sureties can produce sufficient evidence that the defendant was not able to attend court for reason of illness, by producing a doctor's certificate or letter to that effect. The hospitalization may be in or out of the State of Alabama. For the sureties to take advantage of this provision, they shall put the court on notice that the situation exists either prior to the issuance of the conditional forfeiture order or within 28 days after legal service of the conditional forfeiture on the sureties. After receiving notice, the court may continue the case to a future date it deems proper and just for the defendant to appear. If at that time the defendant is still not able to attend court for the same reason, then it shall be the burden of the sureties to produce the evidence within the same prescribed time. This section shall not bar the court from the issuance of a bench warrant for the defendant in cases where the court feels that documents of proof do not reflect the truth, or where the court has reason to believe the defendant may appear and he or she is using such as an excuse to avoid appearance.

(2) If the sureties show that the defendant was confined in jail or in the custody of another jurisdiction in the State of Alabama or any other state, at the time of his or her original appearance or on the date of the issuance of the conditional forfeiture order, or if the surety shows that the defendant is still confined in any jail in the State of Alabama or any other state, or in the custody of another jurisdiction within the State of Alabama or any other State, or in the custody of another jurisdiction within the continental United States, including United States Federal Jurisdiction, the court shall set aside the conditional forfeiture and continue the case until a time after the end of that confinement. If the court later learns that the defendant is free from confinement before the confinement was supposed to end, then the court, with notice to the sureties, may reset the case and the burden shall be on the sureties to produce the defendant for the hearing or the court may issue another conditional forfeiture.

(3) If the sureties show the defendant is deceased.

(4) If the sureties show the defendant was serving on active duty in one of the military services of the United States.

Section 40. Remission After Final Judgment of Forfeiture.

In forfeiture cases where the sureties have paid the amount of the forfeiture into the court or in cases where the forfeiture has been made final or absolute and there is no further litigation pending on the forfeiture, and the surety locates the defendant and causes the return of the defendant to the custody of the court where the bond was forfeited, and if the defendant was substantially procured by actions of the surety, and the administration of justice has not been thwarted nor the successful prosecution of the defendant has been affected, then the court which ordered the forfeiture, shall have full power and jurisdiction in all proceedings conducted pursuant to this article and within a period of six months from the date of issuance of any final forfeiture judgment, to consider any costs to the state or its subdivisions which resulted as a cause of the default, if any, and upon giving consideration thereto, may, in the court's discretion, remit the whole of the penalty of the bail, or undertaking, or any portion thereof, which is in excess of any costs to the state or its subdivisions, and render a new final judgment against the sureties appearing upon the bail bond or undertaking. In forfeiture cases, if the judgment has been paid into the State or Municipal Treasury, the court may issue an order to the custodian of the treasury to make a refund to the sureties.

Section 41. Reasons for Default Heard at Any Time, and Allowed Without Costs.

Reasons for default shall be heard by the court on application, at any time when not engaged in other business. When a conditional judgment is set aside for sufficient cause, no cost shall be imposed on the sureties. This provision has no application where money is deposited instead of bail. Sureties may appear before the courts of this state or its subdivisions to answer any "show cause order," conditional or final forfeiture to give any reasons for default, to present any defense to the default, and for any other purpose of informing the courts about information relating to the appearance or non-appearance of the defendant on the bail of which they are surety. If the surety is a professional surety or professional bail company then any agent or representative of the professional surety or bail company may appear for the same purposes.

Section 42. Revocation of Authority to Execute Bail by Clerk.

In all cases where a conditional forfeiture has been made final by any court of the state or any of its subdivisions and there has

been no further action or request filed with the court, appeal taken, application to the State Pardons and Paroles Board, or any other litigation of which the court has knowledge has been filed by the surety with the court within 30 days of the entry or order of the final judgment and the same has not been paid to the clerk of the court, then the clerk shall refuse to accept and approve any bonds from the surety as being insufficient. The clerk shall notify all persons authorized to accept and approve bonds returnable to the court of the action and they shall no longer accept or approve surety on bonds until notified otherwise by the clerk. The clerk shall also notify the circuit clerk of the county who shall notify all other clerks of any courts in the county in writing and the clerks shall refuse to accept or approve any other bonds of the surety and shall notify the other authorized persons having the authority to approve and accept bail returnable to their courts of the action and they shall no longer accept or approve the surety on bail until otherwise notified by the clerk. Refusal by the clerks shall be in writing and shall be known as a "clerk's revocation of surety."

ARTICLE VII

QUALIFICATION OF BAIL - JUDICIAL PUBLIC BAIL

Section 43. Judicial Public Bail - Authority of Release Person.

Only a judicial officer may release a person on judicial public bail. The judicial officer shall have jurisdiction over the case and defendant in order to release the defendant on judicial public bail. The judicial officer shall have a hearing for the person and determine if the person meets the requirements of this article.

Section 44. Procedure for Bail Hearings.

A judicial public bail hearing may commence by a motion from any judicial officer having jurisdiction over the defendant or by the defendant's application as stipulated in Section 10.

Section 45. Notice to Prosecutor.

Prior to the hearing, the judicial officer shall have the clerk of the court give a minimum notice of 72 hours to the district attorney of the circuit of the jurisdiction, or to an assistant district attorney of the jurisdiction for that purpose, or the prosecuting officer of the municipal court in municipal court cases, that a person seeks to be released on judicial public bail and notice shall stipulate the time of the hearing. No person shall be released on judicial public bail unless notice is given. Upon receipt of the notice, the district attorney, or prosecutor, or his or her assistant shall be entitled to be heard at the hearing on the merits of the conditions of release, and the hearing shall be at a time, date, and

place certain wherein all parties shall appear and proceedings shall be a matter of record. Nothing contained in this act shall be construed as granting or affording the defendant an absolute right to be released on judicial public bail, but release shall be in the discretion of the judicial officer and within the terms of this article.

Section 46. Defendants Who May be Eligible.

Any person charged with a felony, misdemeanor, or violation shall be eligible for a judicial public bail, if:

(1) The person is not charged with robbery, capital murder, forcible sex crimes, escape, trafficking in drugs or the sale of drugs.

(2) The person has not been convicted of a previous felony or committed a felony while being released on any form of bail.

(3) The person is not presently under a suspended sentence or on probation or parole for a previous conviction on a misdemeanor or a felony.

(4) There is no evidence, satisfactory to the judicial officer, that the person has violated a previous bail release, whether it be judicial public bail, property, cash, or professional surety bail.

Section 47. Judicial Public Bail Release.

Any person charged with an offense other than an offense exempted by Section 46, may be ordered released pending trial on judicial public bail upon the execution of an unsecured appearance bond in an amount specified by the judicial officer, unless the officer determines that a release will not reasonably assure the appearance of the person as required or the safety of any other persons or the community. If that determination is made, a judicial officer may either in lieu of, or in addition to, the above method of release, impose restrictions on the travel, association, or place of abode of the person during the period of release or any other conditions specified in Rule 7 of the Alabama Rules of Criminal Procedure on the actions of the defendant while on bail.

Section 48. Determination of Conditions of Release.

In determining the restrictions and conditions of release that will assure the appearance of a person as required, and safety of any other person or the community, the judicial officer shall, on the basis of available information, take into account such matters as the nature and circumstances of the offense charged, the weight of the evidence against the person, family ties, employment, financial resources, character and mental condition, past conduct, length of residence in the community, record of convictions, and

any record of appearance at court proceedings or failure to appear at court proceedings as well as any objection or recommendation of the district attorney or prosecutor.

Section 49. Additional Conditions.

A judicial officer ordering the release of a person on any condition may at any time amend the order to impose additional or different conditions of release.

Section 50. Order of Release.

A judicial officer authorizing the release of a person shall issue an appropriate order containing a statement of the conditions imposed, and shall advise the person that a warrant of arrest or other court order shall be issued against the person terminating the release and committing the person to jail upon any violation of the conditions of the release. The court shall provide a copy of the order to the defendant and shall serve a copy on the district attorney, or prosecuting officer of the court and the person's counsel of record, if any.

Section 51. Cumulative Punishment.

Nothing in this act shall interfere with or prevent the exercise of power to punish for contempt by the courts.

Section 52. Evidence.

Information stated in, or offered in connection with, any order entered pursuant to this article need not conform to the rules pertaining to the admissibility of evidence in a court of law.

ARTICLE VIII

Section 53. Qualification for Property Bail.

The qualifications for property bail are that each surety be a resident of the state, and an owner of real property therein, and that any property pledged shall be worth, exclusive of all encumbrances and homestead exemptions presently against the property, the amount expressed in the appearance bond. Any proper approving officer, in approving property bail, may allow more than one person to justify severally as bail in amounts less than that expressed in the appearance bond, provided the whole be equivalent to the amount in the appearance bond. The worth shall not be determined by the assessed value of the property but shall be calculated, determined, and evaluated in the manner set forth in the affidavit described in part (A) of this section. If the property owner(s) claim a homestead exemption in the affidavit then they shall also execute the waiver of a homestead exemption form as provided in part (B) below. The affidavit shall be signed by the owners of the properties

and the affidavit shall be the same as a lien against the property, and upon the rendition of a final forfeiture, the state or its subdivisions may proceed on the document for sale of the property to satisfy the judgment. The following shall be substantially the forms to be used for the affidavit and waiver mentioned above.

(A) LIEN AND AFFIDAVIT OF PROPERTY OWNERS - BAIL
STATE OF ALABAMA

COUNTY OF _____ Court _____

or

CITY OF _____ City/County _____

Charges: _____

VS.

 Name of property owners: _____ Address: _____

 Address: _____

STATE OF ALABAMA

COUNTY OF _____

Before me, the undersigned authority, personally appeared _____, who first by me being duly sworn, on oath, deposes and says:

That he or she possesses the qualifications and is sufficient to become a surety and that he or she is the owner of the following described property, and that he or she pledges said property as collateral for the above named defendant and his or her bail:

<u>Legal Description of Property Owned:</u>	<u>Value</u>
(1) Example:	
40 acres, located _____ ... as	
recorded in Deed Book _____, at	
Page _____, etc.	\$45,000.00
.84 acres, located _____ ... as	
recorded in Deed Book _____, at	
Page _____, etc.	10,000.00
Lots 1, w, 3, and 18, Block B. . . .	
as recorded in Deed Book _____, at	
Page _____, etc.	900.00
TOTAL VALUE	\$55,900.00

(2) The encumbrances on the above described property are as follows:

(example)

Homestead exemption	\$ 2,000.00
Amount of undischarged prior undertaking of Bail	2,000.00
First mortgage in favor of (name of lending institution)	<u>22,000.00</u>
Total Encumbrance	\$26,000.00
Total Unencumbered Value	\$29,999.99

Property owners are qualified to make bail in an amount equal to the Total Unencumbered Value.

(3) That the total number of bails, executed for other people than my immediate family within the year, including this one is _____.

(4) That the above listed real property is not exempt from forced sale under the Constitution and laws of the State of Alabama.

(5) That the property is free of mortgages, liens, and encumbrances other than those listed above.

Surety L.S. _____ L.S.
Surety

(6) That I am not an attorney, a judicial official, or a person authorized to take bail and that I own property in this state that has a fair market value equal to or greater than the amount of the appearance bond in this cause, exclusive of property exempt from execution and above and over all liabilities, including the amount of all other outstanding appearance bonds entered into by me.

SWORN TO AND SUBSCRIBED before me in _____ ,
Alabama, on this the _____ day of _____ , 19____ .

NOTARY PUBLIC

NOTICE

I, _____ , HAVE BEEN ADVISED THAT IF I HAVE PROVIDED ANY FALSE INFORMATION IN THE ABOVE AFFIDAVIT, I COULD BE CHARGED WITH A CRIME AND BE PUNISHED ACCORDING TO THE LAW.

SURETY'S SIGNATURE

SURETY'S SIGNATURE

(B) WAIVER OF HOMESTEAD EXEMPTION FOR BOND

In the _____ Court of _____ County
 _____ State of Alabama _____
 Municipality of _____

v. _____ As (a surety) of
 the bond securing the presence of the above named defendant, in
 compliance with Article X §210, Constitution of Alabama 1901 and
 §6-10-122, Code of Alabama 1975, (I) (we) hereby waive by this
 separate instrument (my) (our) right(s) to claim (my) (our) home-
 stead, exempt from execution or other process for collection of debt
 necessary for enforcement of the provisions of the bond.

Done this the _____ day of _____ 19____ .

 Surety/Property Owner
 (Print Name)

 Signature of Surety

 Spouse of Surety
 (Print Name)

 Signature of Spouse

I, _____, a Notary Public in and for the above
 named county of the State of Alabama, hereby certify that the
 surety and any spouse of the surety; whose name(s) is/are signed
 to the foregoing instrument, being informed of the instrument,
 has/have voluntarily executed and acknowledged the same before
 me this date.

Given under my hand this the _____ day of
 _____ 19____.

 Notary Public

My Commission Expires: _____

Section 54. Value of Property Determined by Approving Authority.

Any person having the authority to approve and accept property bail shall determine the sufficiency of the bail. As to the value of the property being pledged, the person may take into consideration any property appraisals, including the appraised value by the tax assessor office of the county, or any other documents presented by the owner of the property reflecting a value. The person may request the property owner to produce any documents or other

forms which in his or her opinion may aid in the determination of sufficiency. The person may rely solely on the information provided in the affidavit provided by the owner without any verification.

Section 55. False Information on Property Affidavit.

Any person or owner of property who willfully or intentionally provides false information on a property affidavit, as set out in Section 53, and the information was material in the determination by the person having the authority to approve the bail, and the person relied upon the information to make a determination of sufficiency of the bail and a defendant was released on the bail, then the person or owner of property shall be guilty of a Class A misdemeanor and if convicted be sentenced according to the law.

Section 56. Property Owners as Surety - Limited.

A property owner shall not execute or become surety for more than four different persons in any one year, other than immediate family members, unless the property owner qualifies and meets the requirements set out in this act for professional surety or professional bail companies. A property owner who becomes surety on bail in accordance with this article may not charge a fee or receive anything of value as a consideration thereof.

Section 57. Filing of Lien in Default Cases - Release.

(a) Clerks of all courts of the state and its subdivisions may file the "lien and affidavit" form in the probate court of the county where the property is located immediately after a final forfeiture is ordered by any court of the State of Alabama or its subdivisions. The probate court shall file and record it in its real property recordings and there shall be no charge to the city or state assessed or collected.

(b) In all final forfeiture cases of property bail, where the judgment has been satisfied by the sureties or the court has set aside the final forfeiture and the sureties liability has been discharged by law, the clerk of the court shall see that any "lien and affidavit" form previously filed is so cancelled. The clerk may cancel it by issuing a cancellation of the lien. The cancellation shall be in writing and filed and recorded by the judge of probate of the county where the property is located. The probate court shall not charge a filing or recording fee to the city or state.

(c) The cancellation shall be sufficient if the following language is substantially used:

I, the clerk of the _____ court of
 _____ (city) _____ county of the
 State of Alabama hereby cancel the lien so filed on _____ (date)

and declare the same to be satisfied by payment of the same or by operation of law.

Section 58. Collection - Property Bail Forfeitures.

The clerks of all courts of the State of Alabama and its subdivisions shall make every effort to collect forfeitures. All clerks may issue executions, as ordered by the courts, to the sheriff of the county where the court is located for the sheriff to execute on properties belonging to the sureties. The issuance of executions shall be as prescribed by laws of this state.

ARTICLE IX

CASH BAIL

Section 59. At any time after an order admitting a defendant to bail, the defendant or another person may deposit with the clerk of the court in which the defendant is held to answer, or the court's designee, the sum mentioned in the order in cash. A receipt of the monies issued by the clerk or the court's designee shall be provided to the person posting the cash bail. A release shall be issued for the defendant and the defendant shall be discharged from custody.

ARTICLE X

QUALIFICATION AND REGULATION

Section 60. Qualifications - Professional Surety Company.

No professional surety company shall execute or become surety on any appearance bond in this state, unless it has an order granting authorization to become professional surety on any bail. The order granting the authorization shall be reissued annually, prior to January 1 of each year, by the presiding circuit judge of the county in which the company desires to execute bail or appearance bonds. Prior to the judge's issuance of the original order and no later than December 1 of each year, thereafter, professional surety companies shall submit annually to the presiding circuit judge the following:

(1) An original or certified copy of a certificate of authority or certificate of compliance from the Department of Insurance reflecting that the company is qualified to write a bail line of insurance and that the company is in good standing with the department.

(2) An original qualifying power of attorney issued by the professional surety company, specifying any applicable limitations and the names of the agents that may execute and bind the company to a bail undertaking. The qualifying power of attorney shall not name any company, corporation, or other entity as an agent

except a person as defined as a professional bondsman in Article I, Section 1 of this act, and that person shall be an agent of the company licensed with the Department of Insurance.

(3) A copy of the license issued by the Department of Insurance of each agent who is named in or appointed by the qualifying power of attorney in subdivision (2) or a letter or other documentation from the department indicating that the appointed agents are temporarily licensed as agents of the professional surety company for those lines of insurance.

(4) An affidavit or certification in writing, under oath, executed by a licensed agent of the professional surety company who is the manager or an owner or president of a corporation, company, partnership, or other entity that represents the professional surety company, filed with the clerk of the circuit court of each county in which the professional surety company executes or becomes surety on appearance bonds, stating the following:

a. That all appearance bonds shall be executed in the name of the professional surety company as surety by the agents listed or appointed in the qualifying power of attorney presented to the court or any other qualifying powers of attorney filed with the circuit clerk of the county.

b. That all agents listed or appointed in the qualifying powers of attorney shall be licensed by the department of insurance, prior to their appointments.

c. That any agency, company, corporation, or other entity that represents the professional surety company in the county, has no owners or other persons having a direct or indirect financial interest in such agency, company, corporation, or other entity, that have been convicted of a felony or a crime involving moral turpitude. If any person having a direct or indirect financial interest in such agency, company, corporation, or other entity has been convicted of a felony or a crime involving moral turpitude, then the affidavit or certification shall certify that there has been such conviction, providing the name of the person convicted, and certify that the person convicted has been pardoned or has had a restoration of civil rights.

d. That the professional surety company has no knowledge of forfeitures that have been final for more than 30 days that have not been paid arising out of surety undertaking, and that the professional surety company has no petitions, motions, or other litigation matters pending.

e. That no agents of the professional surety company who have the authority to execute appearance bonds in its behalf or any

person having a financial interest, direct or indirect, in the ownership or management of any agency, company, corporation, or other entity that represents the professional surety company in the execution of appearance bonds, is an attorney, a judicial official, a person authorized to accept an appearance bond, or an agent of an attorney, judicial official, or person authorized to accept an appearance bond.

f. The names and addresses of all persons, officers, employees, and agents of the agency, company, corporation, or other entity that represents the professional surety company becoming surety on appearance bonds who have a direct or indirect financial interest in the agency, company, corporation, or other entity representing the professional surety company and the nature and extent of each interest.

g. That those persons stated in Section 60 have not, within a period of two years, violated any provisions of this act or any rules adopted by the Supreme Court of Alabama in accordance with this act.

Section 61. Qualifications - Professional Bail Companies.

No professional bail company shall execute or become surety on any appearance bond in this state, unless it has an order granting authorization to become professional surety on any bail. The order granting authorization shall be reissued annually prior to January 1 of each year by the presiding circuit judge of the county in which the company desires to execute bail or appearance bonds. Prior to the judge's issuance of the original order and no later than December 1 of each year, thereafter, professional bail companies shall submit annually to the presiding circuit judge the following:

(1) **An original corporate surety bond or escrow agreement**, filed and approved by the presiding circuit judge of the county in which the professional bail company executes or becomes surety on appearance bonds, in the amount of twenty-five thousand dollars (\$25,000), guaranteeing the payment of all sums of money that may become due by virtue of any judgment absolute that may be rendered against the professional bail company on a forfeiture entered by any court in the county. Corporate surety bonds shall be executed only by a surety company authorized to do business in the State of Alabama and qualified to write bonds by the Department of Insurance. The corporate surety bond shall provide that it may be cancelled as to any future liability by the corporate surety company or the professional bail company giving 30 days prior written notice of the cancellation to the clerk of the circuit court in which the bond or instrument was filed. A bank in the State of Alabama shall be a party to all escrow agreements, and those agreements shall provide that the agreement may be cancelled as to any future

liability only by the professional bail company and bank giving 30 days prior written notice of the cancellation to the clerk of the circuit court in which the escrow agreement or instrument is filed. Once a professional bail company has filed an original continuous corporate surety bond or escrow agreement with the circuit clerk and it has been approved by the presiding circuit judge, then the professional bail company does not have to file any other original continuous corporate surety bond or escrow agreement upon annual recertification. The professional bail company shall submit an original certificate from the insurance company which executed the corporate surety bond reflecting that it is still in force or an original letter from the bank stating the escrow agreement is still effective and the monies are still held in trust. When any professional bail company is annually recertifying, the circuit clerk shall send the original corporate surety bond or original escrow agreement with any cancellations received by the circuit clerk to the presiding circuit judge for review and approval.

(2) An original qualifying power of attorney, letter, or other document issued by the professional bail company specifying any applicable limitations and specifying the agents who are authorized to execute and bind the professional bail company to a bail undertaking or to appearance bonds. The qualifying power of attorney, letter, or other document may only name persons as agents.

(3) An original affidavit or certificate in writing, under oath, executed by an owner or officer of a professional bail company, to the clerk of the circuit court of the county in which the professional bail company shall execute or become surety on appearance bonds which contains the following:

a. That all appearance bonds shall be executed in the name of the professional bail company as surety by the agents listed or appointed in the qualifying power of attorney, letter, or other document presented to the court or any other person so named in any future qualifying powers of attorney, letters, or documents filed with the circuit clerk of the county.

b. That the professional bail company is qualified to do business in this state and its resident address.

c. That the professional bail company has sufficient financial net worth to satisfy its obligations as a surety.

d. That no person having a direct or indirect financial interest in the professional bail company has been convicted of a felony or a crime involving moral turpitude. Notwithstanding the foregoing, if any person having a direct or indirect financial interest in the bonding business has been convicted of a felony or a crime involving moral turpitude, then the person making the certification shall

certify that there has been a conviction, provide the name of the person convicted, and certify that the person convicted has been pardoned or has had a restoration of civil rights.

e. That the professional bail company has no knowledge of any forfeiture that has been made final for more than 30 days that has not been paid arising out of surety undertakings and as to which the professional bail company has no petitions, motions, or other litigation matters pending.

f. That there are no persons, including employees, agents, or persons with a financial interest in the professional bail company, who, within a period of two years, violated this act, or any rules adopted by the Supreme Court governing the qualifications of professional surety or bail companies.

g. That no employee, agent, or any other person having a direct or indirect financial interest in the professional bail company is an attorney, a judicial official, a person authorized to accept an appearance bond, or an agent of an attorney, judicial official, or person authorized to accept an appearance bond.

h. The names and addresses of all officers, employees, and agents of the professional bail company who have a direct or indirect financial interest in the professional bail company and the nature and extent of each interest.

Section 62. Filing Original Documents - Circuit Clerk.

Professional surety and professional bail companies shall file all corporate surety bonds, escrow agreements and other original documents required pursuant to Article X with the circuit clerk of the county where the professional surety or bail company desires and intends to become surety on appearance bonds, and such bonds, escrow agreements, and other documents shall be approved by the presiding circuit judge as being sufficient. Any surety bonds, escrow agreements, and other documents pertaining or attached thereto shall be originals only. After the documents are approved, the circuit clerk shall take custody of the originals and file them for safekeeping. Such documents are public records.

Section 63. Surety Bond and Escrow Agreements - Forms.

All corporate surety bonds and escrow agreements shall contain essentially the language set out in forms provided and approved by the Alabama Supreme Court. Corporate surety bonds presented shall have an original qualifying power of attorney from the company attached thereto and a certificate of authority or certificate of compliance from the Department of Insurance reflecting that the corporate surety company is qualified to execute surety bonds in Alabama.

Section 64. Revocation by Circuit Judges.

The presiding judge of the circuit court may, and on verified motion of the prosecutor shall, subpoena the representatives of the professional surety company or professional bail company or other persons for examination under oath concerning matters relating to any affidavit or certificate filed, outstanding forfeitures, and all relevant books, tax returns, and financial data. Authority to act as a professional surety company or a professional bail company may be revoked or withheld by the court for violation of this act, any rule promulgated by the Supreme Court of the State of Alabama, in accordance with this act, for failure to submit subpoenaed documents, for failure to answer truthfully all relevant questions asked by the court, or in the event the professional surety company or professional bail company has outstanding and unpaid final forfeitures anywhere, or in any court in the State of Alabama. As used herein, outstanding unpaid final forfeitures shall be those in which a final order of forfeiture has been entered by the court and 30 days have elapsed since the date of the final judgment; provided, however, that those companies have no petitions, appeals, or other matters of litigation pending of which the court has knowledge.

ARTICLE XI

MISCELLANEOUS

Section 65. Misrepresentation as Surety.

Any person who becomes surety on any bail for a defendant in this state and receives something of value or charges a fee therefor, and who is not authorized as a professional surety or bail company under this act shall be guilty of a Class A misdemeanor and, upon conviction, shall be sentenced in accordance with the laws of this state for such an offense.

Section 66. Severability.

The provisions of this act are severable. If any part of this act is declared invalid or unconstitutional, such declaration shall not affect the part which remains.

Section 67. Repealer.

All laws or parts of laws which conflict with this Act are hereby repealed.

Section 68. Effective Date.

This act shall become effective 45 days after its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved May 17, 1993

Time: 12:06 P.M.

Act No. 93-678

H. 963 – Reps. Fuller, Laird

AN ACT

To propose an amendment to the Constitution of Alabama of 1901, relating to and authorizing and directing the levy and collection, by the governing body of Chambers County, of an additional special county-wide ad valorem or property tax exclusively for public library purposes in said County, effectively subject to the approval of the electorate of said County, providing for the rate and duration of such tax, providing for one or more elections within said County, under certain circumstances, to approve the rate and duration of such tax, providing for the use and expenditure of the proceeds from such tax, providing that the provisions of such proposed amendment are and shall be self-executing, and providing that the provisions of Amendment No. 425 to the Constitution (providing an alternative method for submission of certain proposed constitutional amendments) are inapplicable to such proposed amendment; to fix a date for an election upon such proposed amendment; and to provide for publication of notice thereof prior to such election.

Be It Enacted by the Legislature of Alabama:

Section 1. The following amendment to the Constitution of Alabama of 1901 is hereby proposed:

PROPOSED AMENDMENT

The governing body of Chambers County shall, subject to succeeding provisions of this amendment (including those relating to approval by the Chambers County electorate), and notwithstanding anything in the Constitution or laws of Alabama to the contrary, levy and collect a special county ad valorem or property tax at the rate of twenty cents (\$.20) on each one hundred dollars (\$100) of taxable property in said County, for a period of ten fiscal (or ad valorem tax) years of said County. Such tax shall be in addition to any taxes now authorized, or that may hereafter be authorized, by the Constitution and laws of Alabama to be levied and collected in Chambers County or by said governing body.

The proceeds of the aforesaid tax shall be used exclusively for public library purposes in Chambers County, including particularly (but without limitation) (a) the acquisition, construction, reconstruction, improvement, enlargement, equipment, operation, maintenance and support (or any one or more thereof) of

(1) any public library or libraries operated or supported (whether in whole or in part) by said County, by the Chambers County Library Board, or by any other similar public or governmental body empowered, under the Constitution and laws of Alabama, to operate or support public libraries, including particularly, but without limiting the generality of the foregoing, (i) that certain public library located in the City of Lafayette now owned by the City of Lafayette, and (ii) that certain public library located in the City of Valley now owned by a not-for-profit foundation or a not-for-profit corporation, and

(2) any other public libraries, branch libraries or related public library facilities (including, without limitation, one or more buildings and any equipment and lands necessary therefor) located or to be located in Chambers County and forming or to form a part of the public library system of said County; and (b) the payment of principal of or interest (or premium, if any) on any bonds, warrants, notes or other securities (including, without limitation, refunding securities) issued by said County for public library purposes in Chambers County; provided, that any public library, branch library or related public library facilities described in the preceding provisions of this amendment shall be owned either by said County, said Chambers County Library Board or other public or governmental body, or by a not-for-profit corporation or other similar nonprofit organization (regardless of how denominated or organized); and provided further, (A) that the proceeds of such tax may be expended to pay any costs of constructing, reconstructing, improving or enlarging any additions or improvements to any building or buildings used or to be used (at least in part) by, or in connection with the operation of, the aforesaid public library located in the City of Valley, notwithstanding that such building or buildings may also then be used (or may thereafter be used) in part by, or in connection with the operation of, archives or other facilities that are not, and are not expected to be, operated for public library purposes, and (B) that none of the proceeds of such tax may be expended to pay any costs of operating, equipping, maintaining or supporting any such facilities that are not, and are not expected to be, operated for public library purposes. In expending (or causing to be expended) the proceeds of such tax for the purposes herein authorized, and in otherwise carrying out the purposes of this amendment, the governing body of Chambers County shall not be subject to the provisions of sections 93 and 94 of the Constitution, as amended.

If this amendment is approved, and if a majority of the qualified electors of Chambers County who vote at the election thereon vote in favor of this amendment, then the tax hereinabove authorized shall be levied and collected as hereinabove provided, without any other election having been held thereon. However, if this amendment is approved but a majority of the qualified electors of Chambers County who vote at the election thereon vote against it, then such tax shall not be levied unless the question of the levy of such tax as hereinabove provided shall have been submitted to a vote of the qualified electors of said County and approved by a majority of those voting at such election; and such tax shall, upon such approval, be levied and collected as hereinabove provided. Subsequent elections may be held at intervals of not less than one year, and shall be called, held and conducted in the same way, according to the general laws of Alabama (with such modifications

as shall be necessary to comply with the provisions of this amendment), as elections on the question of issuing county bonds. Following the approval of the Chambers County electorate (whether at the election on this amendment or at a subsequent county election as hereinabove provided), the tax herein authorized shall, to the fullest extent consistent with the efficient and practical administration of the tax system of Chambers County and without regard to any law otherwise requiring the levy of county taxes during a certain month or on or before a particular date, be initially levied by the governing body of said County so that it shall first become due and payable on the October 1 next succeeding such election.

The provisions of this amendment are and shall be self-executing, and authorization from or any other action by the legislature shall not be a prerequisite to the levy and collection of the tax herein authorized, to the use of the proceeds of such tax as herein provided, or to the call, holding or conduct of any election in said County as hereinabove provided for. It is hereby specifically declared that this amendment is not being proposed pursuant to the provisions of that certain amendment to the Constitution (known as Amendment No. 425) that was proposed by Act No. 82-330 adopted at the 1982 Regular Session of the Legislature of Alabama, and the provisions of the said Amendment No. 425 are hereby declared to be inapplicable to this amendment.

Section 2. An election upon the proposed amendment is ordered to be held at the first statewide primary, general or special election after the expiration of three (3) months from the final adjournment of the session of the Legislature at which this bill is enacted. The election shall be held in accordance with the provisions of Section 284, as amended, and Section 285 of the Constitution of Alabama of 1901 and Title 17, Chapter 17, Code of Alabama 1975, as amended

Section 3. Notice of the election on the proposed amendment shall be given by proclamation of the Governor published in every county in the state for four successive weeks next preceding the day herein appointed, in a newspaper published in each such county; provided that in any county in which there may be no newspaper published, the proclamation shall be published by posting, for a period of not less than four consecutive weeks next preceding the day so appointed, a copy of the said proclamation at each courthouse in the said county. A newspaper shall be deemed to be published in a county, within the meaning of this section, if its principal editorial office is located in that county.

CONSTITUTIONAL AMENDMENT

Passed the House April 29, 1993 as amended

Passed the Senate May 17, 1993

Act No. 93-679

H. 845 – Rep. Harper

AN ACT

Relating to insurance premium tax; to provide a phase-in of equal rates of premium tax to be paid annually by foreign and domestic insurance companies on life and health insurance premiums; to provide an equal rate of premium tax to be paid annually by foreign and domestic companies writing other insurance; to alter the payment schedule for premium taxes, beginning with the current fiscal year; to provide exemptions, credits, and deductions; to require reports; to provide for penalties; to provide an exclusive tax on premiums; to amend Section 10-4-115, Code of Alabama 1975, to clarify that non-profit corporations organized pursuant to Section 10-4-100, et seq., Code of Alabama 1975, are subject to premium tax; to amend Section 27-21A-28, Code of Alabama 1975, to clarify that health maintenance organizations are subject to premium tax; to amend Section 27-10-31, Code of Alabama 1975, to increase the tax rate on brokers of surplus line insurance; to tax wet marine and transportation premiums the same as other casualty insurance; to provide that mutual aid associations are subject to the provisions of this act, including the premium tax; to provide that certain statements be provided to the Insurance Department; and to repeal Sections 27-4-1, 27-4-3 to 27-4-7, inclusive, 27-4-9 to 27-4-10, inclusive, and Section 27-30-31, Code of Alabama 1975.

Be It Enacted by the Legislature of Alabama:

Section 1. This act shall be known and may be cited as “The Insurance Premium Tax Reform Act of 1993.”

Section 2. For the purposes of this act only, the following terms, unless the context clearly indicates otherwise, shall have the meanings:

(1) **ANNUITY CONSIDERATIONS.** All sums received as consideration for annuity contracts.

(2) **COMMISSIONER.** The Commissioner of Insurance of the State of Alabama.

(3) **DEPARTMENT.** The Department of Insurance of the State of Alabama.

(4) **DOMESTIC INSURER.** Any insurer organized under the laws of the State of Alabama which maintains its principal office and chief place of business in the State of Alabama.

(5) **FOREIGN INSURER.** Any insurer organized under the laws of any country or of any state of the United States other than the State of Alabama and any insurer organized under the laws of Alabama which maintains its principal office or chief place of business outside the State of Alabama.

(6) **INSURER.** Every insurer as defined in Section 27-1-2, and every other insurance company or association charging a premium for contracts entered into by those companies, associations, or societies, which shall include every non-profit corporation organized

pursuant to Sections 10-4-100 to 10-4-115, inclusive, Code of Alabama 1975, every mutual aid association including those organized pursuant to Chapter 30, Title 27, and every health maintenance organization including those organized pursuant to Chapter 21A, Title 27, Code of Alabama 1975. Notwithstanding the foregoing, societies exempt pursuant to Section 27-34-42, Code of Alabama 1975, and self-insurance programs utilizing a trust fund or similar entity providing workers' compensation, health, and other insurance-like coverage shall not be included within this definition of insurer.

(7) **PREMIUMS.** All amounts received in cash or otherwise on risks in this state as consideration for contracts of insurance, less all of the following:

- a. Insurance premiums returned.
- b. Reinsurance premiums from insurance companies authorized to do business in Alabama and subject to the premium tax provided for in Chapter 4 of Title 27 of the Code of Alabama 1975.
- c. Dividends paid, applied, or left with the company to accumulate at interest.

Premiums shall not include: (i) annuity considerations; or (ii) charges by title insurers for abstracting, record searching, certificates as to the record title, escrow and closing services and other related services, or the costs and expenses of examinations of title.

Section 3. (a) Subject to the exceptions and exemptions hereinafter set forth, for the year beginning on January 1, 1995, and for each year thereafter, every insurer shall pay to the commissioner a premium tax equal to the percentage, as set out in this subsection (a), of the premiums received by the insurer for business done in this state, whether the same was actually received by the insurer in this state or elsewhere:

(1) **Premium Tax on Life Insurance Premiums.**

a. Except as hereinafter provided, the rates of taxation on life insurance premiums shall be those amounts set out in the following schedule:

<u>Year</u>	<u>Foreign Insurers</u>	<u>Domestic Insurers</u>
1995	2.9	1.3
1996	2.8	1.6
1997	2.7	1.8
1998	2.5	2.1
Every Year Thereafter	2.3	2.3

b. Individual life insurance policies in a face amount of greater than five thousand dollars (\$5,000) and up to and including twenty-five thousand dollars (\$25,000), excluding group life insurance policies, shall be taxed at the rate of one percent per annum.

c. Individual life insurance policies in a face amount of five thousand dollars (\$5,000) or less, excluding group life insurance policies, shall be taxed at the rate of one-half percent per annum.

d. For the purposes of computing the face amount of life insurance policies, all life insurance policies issued within 60 days of another on the life of the same applicant or applicants shall be treated as one policy.

(2) Premium Tax on Health Insurance Premiums.

a. Except as hereinafter provided, the rates of taxation on premiums for health insurance, and accident and health insurance for which a separate premium is charged, shall be those amounts set out in the following schedule:

<u>Year</u>	<u>Foreign Insurers</u>	<u>Domestic Insurers</u>
1995	2.9	1.3
1996	2.8	1.6
1997	2.4	1.6
1998	2.0	1.6
Every Year Thereafter	1.6	1.6

b. Premiums for hospital, medical, surgical, or other health care benefits provided pursuant to any employer sponsored plan for groups with less than 50 insured participants shall be taxed at the rate of one-half percent per annum.

c. Premiums for hospital, medical, surgical, or other health care benefits supplementary to Medicare and Medicaid, or provided pursuant to an employer sponsored plan for governmental employees, shall be exempt from the premium tax levied pursuant to this act.

(3) Premium Tax on Other Insurance Premiums.

a. Except as hereinafter provided, the rate of taxation on insurance other than life insurance, health insurance, and accident health insurance shall be 3.6 percent per annum.

b. Premiums for all of the following types of insurance shall be taxed at the rate of one percent per annum:

1. All property and multi-peril insurance written in fire protection Classes 9 and 10.

2. Mobile homes, mobile homeowners, homeowners and low value dwelling policies in a face amount of forty thousand dollars (\$40,000) or less.

c. The tax imposed at the rate specified in paragraph a. of this subdivision (3) shall be reduced by the following credits for certain economic development activities pursued in the State of Alabama.

1. Alabama Insurance Offices Facilities Credit.

For each office owned or leased by an insurer in the State of Alabama and used for insurance operations, an insurer shall be entitled to a credit against the tax imposed by paragraph a. of this subdivision (3) according to the following schedule:

<u>Number of Full Time</u> <u>Employees in Office</u>	<u>Credit as a % of Premiums</u> <u>Taxable Under Paragraph a.</u>
1 - 3	0.0025%
4 - 10	0.0050%
11 - 50	0.0075%
51 or more	0.0100%

The total credit allowable for Alabama insurance office facilities shall not exceed one percent of an insurer's Alabama premiums taxable at the rate specified in paragraph a. of this subdivision (3).

2. Alabama Real Property Investment Credit.

For each one million dollars (\$1,000,000) in value of real property investments in the State of Alabama, an insurer shall be entitled to a credit of 0.10 percent of its Alabama premiums taxable at the rate specified in paragraph a. of this subdivision (3). The total credit allowable for Alabama real property investments shall not exceed 1 percent of an insurer's Alabama premiums taxable at the rate specified in paragraph a. of this subdivision (3).

(i) Alabama real property investments which qualify for the Alabama real property investment credit include any improved Alabama real property owned by the insurer or an affiliate of the insurer on January 1, 1993, and any improved or unimproved Alabama real property acquired or new construction placed in service on or after January 1, 1993, by the insurer or an affiliate of the insurer.

(ii) For purposes of determining the Alabama real property investment credit, Alabama real property investments shall be valued at cost and not at book value or fair market value. The cost of capital improvements to existing Alabama real property investments, such as

the renovation of shopping centers, hotels, or other buildings, completed and placed in service by the insurer or an affiliate of the insurer on or after January 1, 1993, shall be considered an Alabama real estate investment.

(iii) For purposes of determining the value of Alabama real property investments, funds borrowed to finance Alabama real property investments shall be subtracted from cost so that only the net cost in the investment properties borne from assets belonging to the insurer or an affiliate of the insurer qualifies for the Alabama real property investment credit. The cost of debt-financed Alabama real property investments of an insurer shall be increased pro tanto as the underlying debt is paid off by the insurer or an affiliate of the insurer.

(iv) The Alabama real property investment credit shall not be allowed for properties in the State of Alabama used in an insurer's insurance operations and for which the Alabama insurance office facilities credit is allowed or allowable, without regard to the 1 percent limitation on the credit. However, the cost of real property owned in the State of Alabama and used in part as an Alabama real property investment and in part for the insurer's insurance operations shall be allocated on a square-foot basis so that the cost allocated to that portion of the property not used for insurance operations shall qualify for the Alabama real property investment credit.

(v) Mortgages held by an insurer that are secured by real property located in the State of Alabama shall not be considered Alabama real property investments for purposes of the Alabama real property investment credit.

3. Special Rules.

The following special rules apply to the Alabama insurance office facilities credit and the Alabama real property investment credit.

(i) For purposes of determining the economic development credits allowed under this section, the term affiliate shall mean any business entity, other than a life or health insurance company, which is wholly owned by the insurer subject to tax under paragraph a. of this subdivision (3) or any other insurer and its wholly owned subsidiaries, other than a life or health insurance company, which is part of a group of companies, including the insurer, which are under common control and management. For an insurer having affiliates, all premiums of the insurer and its insurance company affiliates subject to tax at the rate specified in paragraph a. of this subdivision (3) may be aggregated; all Alabama insurance office facilities and all Alabama real property investments may be

aggregated; and, subject to the specific credit limitations, the total allowable tax credits may be determined as if all the aggregated premiums, office facilities, and Alabama real property investments were owned by one insurer. Once the total allowable credits have been determined, the credits may be allocated to the insurer and its insurance company affiliates at the sole discretion of the insurer subject to the specific credit limitations on a per insurance company basis. The computation of allowable credits and their allocation to affiliates shall be made on forms to be supplied by the Alabama Department of Insurance, which forms shall be filed with the insurer's annual statement.

(ii) Economic development credits allowed to foreign insurers shall be treated as Alabama premium taxes paid by the insurers for purposes of calculating any retaliatory tax due under Section 27-3-29.

(b) Notwithstanding any provision of law to the contrary, including, but not limited to, Section 27-4-4 and Section 27-4-5, Code of Alabama 1975, all premium tax payments made subsequent to passage of this act shall be remitted in accordance with this subsection (b). Beginning January 1, 1993, and all years thereafter, each insurer shall pay its premium taxes on a quarterly basis, as follows: on or before May 15, a payment estimated on the basis of 25% of its business done in this state during the preceding calendar year or, at the option of the insurer, on the basis of its actual business done in the state from January 1 through March 31 of the same calendar year; on or before August 15, a payment estimated on the basis of 45% of its business done in this state during the preceding calendar year or, at the option of the insurer, on the basis of 180% of its actual business done in this state from April 1 through June 30 of the same calendar year, on or before November 15, a payment estimated on the basis of five percent of its business done in this state during the preceding calendar year or, at the option of the insurer, on the basis of 20% of its actual business done in this state from July 1 through September 30 of the same calendar year; on or before March 1, a payment in the amount of the remainder of the actual premium taxes due on its business done in the state during the preceding calendar year. On or before March 1 of each year, every authorized insurer shall file with the commissioner a statement, on a form as furnished or approved by the commissioner, setting forth the total amount of premiums received by it for business done in this state during the preceding calendar year. The statement shall be verified by an affidavit of an officer of the insurer having knowledge of the facts. It is the intent and meaning of this subsection (b) that any taxes paid on an estimated quarterly basis during the calendar year shall be reconciled to actual premiums received on risks in this

state for such calendar year on the March 1 payment date in the succeeding calendar year.

(c) The tax imposed by this section shall be subject to credit and deduction of the full amount, with 25 percent of the full amount paid, or estimated to be paid, being credited or deducted on each quarterly payment date, for all of the following:

(1) Ad valorem property taxes paid by an insurer on any building and real estate in this state which is owned and occupied, in whole or in part, by the insurer for the full period of the tax year as its principal office in the State of Alabama.

(2) All ad valorem taxes paid by an insurer during the calendar year on any other real estate and improvements thereon in this state which is owned and at least 50 percent occupied by the insurer for the full period of the tax year.

(3) Ad valorem property taxes paid by an insurer on the insurer's offices in this state during the calendar year, but with respect to the office apportioned to the square foot area occupied by the insured, whether the ad valorem taxes are paid directly by the insurer or in the form of rent to a third-party landlord.

(4) All license fees and taxes paid to any county in this state during the calendar year for the privilege of engaging in the business of insurance within the county.

(5) All expenses of examination of the insurer by the commissioner paid during the calendar year.

(6) All license or privilege taxes on lists of securities paid by the insurer under Section 40-24-8, Code of Alabama 1975, during the calendar year.

(7) All franchise taxes paid by the insurer to the State of Alabama for the calendar year.

(8) All credits for assessments as provided under Sections 27-42-16 and 27-44-13, Code of Alabama 1975, or assessments for any insurance guaranty fund or pool now or hereafter created by statute paid during the calendar year.

(9) It is the intent of this subsection (c) that any estimated allowable credits or deductions claimed on quarterly returns be reconciled to actual expenditures made during the calendar year on the return due for March 1 in the succeeding calendar year.

(d) The premium taxes collected under this section shall be deposited in the State Treasury and credited as follows:

(1) To the credit of the State General Fund:

a. One hundred percent of the premium tax paid by all health maintenance organizations, domestic and foreign.

b. Fifty percent of the premium tax paid by domestic life insurers.

c. No part of the premium tax paid by non-profit corporations organized pursuant to the provisions of Sections 10-4-100 to 10-4-115, inclusive, Code of Alabama 1975.

d. Twenty-five percent of the premium tax paid by all other domestic insurers.

e. One hundred percent of the premium tax paid by foreign life insurers.

f. Sixty-two and one-half percent of the premium tax paid by all foreign property insurers.

g. Seventy-five percent of the premium tax paid by all other foreign insurers.

(2) To the credit of the Alabama Special Educational Trust Fund:

a. Fifty percent of the premium tax paid by domestic life insurers.

b. No part of the premium tax paid by non-profit corporations organized pursuant to the provisions of Sections 10-4-100 to 10-4-115, inclusive, Code of Alabama 1975.

c. Seventy-five percent of the premium tax paid by all other domestic insurers.

d. Thirty-seven and one-half percent of the premium tax paid by foreign property insurers.

e. Twenty-five percent of the premium tax paid by all other foreign insurers.

(3) To the credit of the Alabama Special Mental Health Trust Fund 100 percent of the premium taxes paid by nonprofit corporations organized pursuant to Sections 10-4-100 to 10-4-115, inclusive, Code of Alabama 1975.

(4) Any provision of this subsection (d) to the contrary notwithstanding, the amount credited to the Alabama Special Educational Trust Fund and the Alabama Special Mental Health Trust Fund for any fiscal year after the fiscal year ending September 30, 1992, under this subsection (d) shall be limited to no more than the amount so credited in the fiscal year ending September 30, 1992. Any premium tax that would have been

credited to the Alabama Special Educational Trust Fund or the Alabama Special Mental Health Trust Fund but for this limitation, shall be credited to the State General Fund.

Section 4. Every insurer failing to comply with the requirements of this act shall be subject to a penalty of not less than one thousand dollars (\$1,000) nor exceeding ten thousand dollars (\$10,000), recoverable in an action brought by the Attorney General for the Commissioner. Upon any violation, the Commissioner may suspend or revoke the insurer's certificate of authority. Penalties recovered under this section shall be paid to the State Treasury to the credit of the State General Fund.

Section 5. The premium tax levied by this act is exclusive and shall be in lieu of all other and additional taxes and licenses of the state or county imposed on, based upon or measured by premiums received by the insurer for business done in this state. No license or privilege tax shall be charged any insurer paying the premium tax levied by this act by or on behalf of any county.

Section 6. Nothing in this act shall be construed to repeal any existing laws or statutes which exempt or exclude insurers from the payment of fees, taxes, or licenses other than the tax imposed by this act. Without limiting the generality of the preceding sentence, insurers upon which this act imposes a tax upon their premium income or in lieu thereof, shall be exempt from income taxes imposed by the State of Alabama under the provisions of Chapter 18 of Title 40, Code of Alabama 1975, or any other similar law; and the shares of domestic insurers shall be exempt from ad valorem taxes as provided by Section 40-14-70, Code of Alabama 1975.

Section 7. Section 27-10-31, Code of Alabama 1975, is amended to read as follows:

“§27-10-31.

“(a) On or before the first day of March each year, the surplus line broker shall remit to the state treasurer through the commissioner, as a tax imposed for the privilege of transacting business as a surplus line broker in this state, a tax of six percent on the direct premiums, less return premiums and exclusive of sums collected to cover state or federal taxes, on surplus line insurance subject to tax transacted by the broker during the preceding calendar year as shown by the annual statement filed with the commissioner.

“(b) If a surplus line policy covers risks or exposures only partially in this state, the tax so payable shall be computed on the proportion of the premium which is properly allocable to the risks or exposures located in this state.

“(c) The tax under the provisions of this section shall be subject to deduction of the full amount of all expenses of examination of the surplus line broker by the commissioner in the same manner as that allowed for domestic insurers for examination expenses under the provisions of subdivision (5) of subsection (c) of Section 3 of this act. All taxes collected under this section shall be deposited in the State Treasury to the credit of the State General Fund.”

Section 8. Section 10-4-115, Code of Alabama 1975, is amended to read as follows:

“§10-4-115.

“No statute of this state applying to insurance companies shall be applicable to any corporation organized under the provisions of this article and amendments thereto or to any contract made by such corporation unless expressly mentioned in this article and made applicable; except, that such corporation shall be subject to the provisions regarding annual premium tax to be paid by insurers on insurance premiums.”

Section 9. Section 27-21A-28, Code of Alabama 1975, is amended to read as follows:

“§27-21A-28.

“Health maintenance organizations doing business in this state shall be subject to and pay the annual premium tax to be paid by insurers on insurance premiums. The same taxes and filing requirements applicable to life insurers under this title, shall apply to and shall be imposed upon each health maintenance organization licensed under the provisions of this chapter; and the organization shall also be entitled to the same tax deductions, reductions, abatements, and credits that life insurers are entitled to receive.

Section 10. Mutual aid associations shall be subject to the provisions of this act and subject to the annual premium tax to be paid by insurers on insurance premiums.

Section 11. Each insurer who paid premium taxes to this state on business done during calendar year 1992 shall submit to the Department of Insurance a statement indicating the amount of premium taxes which would have been paid by that insurer on that business if the insurer's taxes had been determined under the provisions of this act which will apply to business done in this state during calendar year 1995, including, but not limited to, all provisions related to rates and credits. This information shall be submitted on a form to be developed and furnished by the commissioner, such form to be furnished by the department to insurers no later than August 1, 1993, and returned to the department by

insurers no later than October 1, 1993. The statement shall be verified by the affidavit of an officer of the insurer having knowledge of the facts.

Section 12. Except as provided in Section 14, Sections 27-4-1, 27-4-3 to 27-4-7, inclusive, 27-4-9 to 27-4-10, inclusive, and 27-30-31, Code of Alabama 1975, and all laws or parts of law which conflict with this act are repealed effective at 12:01 a.m. on the first day of January 1995.

Section 13. The provisions of this act are severable. If any part of this act is declared invalid or unconstitutional, that declaration shall not affect the part which remains.

Section 14. Upon its passage and approval by the Governor, or upon its otherwise becoming a law, this act shall become effective at 12:01 a.m. on the first day of January, 1995, with respect to insurance premiums received on or after January 1, 1995; provided, however, that (1) the determination and payment of taxes due on premiums received prior to January 1, 1995, shall be pursuant to the law in effect prior to January 1, 1995, and (2) the provisions of subsection (b) of Section 3 and the provisions of Section 11 shall become effective immediately upon passage of this act and approval by the Governor, or upon its otherwise becoming a law.

Approved May 17, 1993

Time: 4:30 P.M.

Act No. 93-680

H. 609 – Rep. Harper

AN ACT

To amend Section 40-13-6, Code of Alabama 1975, to provide for disbursement and appropriation of proceeds from certain coal severance taxes.

Be It Enacted by the Legislature of Alabama:

Section 1. Section 40-13-6, Code of Alabama 1975, is amended to read as follows:

“§40-13-6.

“In each fiscal year when the funds then on deposit in the special fund or funds created for retirement of the bonds equal the amount needed to pay all the principal and interest becoming payable on the bonds within the succeeding 12 months and the funds then on deposit in the reserve fund or funds created for the

bonds equal the maximum principal and interest becoming due on the bonds in any one year, the severance tax proceeds remaining in the Alabama state docks bulk handling facility trust fund, shall be credited to the state general fund; provided however, that if at the end of any fiscal year of the state, beginning with the fiscal year ending September 30, 1987, the director of the Alabama state docks department shall have notified the director of finance in writing, at least five days prior to the close of the fiscal year, that the revenues to be derived by the Alabama state docks department from the operations of its coal handling facilities for the then current fiscal year are anticipated to be insufficient to pay the aggregate of (1) the expenses (exclusive of depreciation) incurred in operating and maintaining the facilities during such fiscal year and (2) principal and interest that came due during such fiscal year on those bonds of the Alabama state docks department for payment of which the revenues have been pledged (which notification shall specify the amount of the expected deficiency), then the remaining severance tax proceeds shall remain in the Alabama state docks bulk handling facility trust fund and shall not be transferred to the state general fund. Following the filing of such notification, a report shall be filed by the director of the Alabama state docks department with the director of finance within 30 days after the close of such fiscal year, supported by such documentation as may be deemed appropriate by the director of finance and attesting to the amount of the actual deficiency, computed as described above, incurred in the operation of the facilities during the immediately preceding fiscal year. Upon receipt of the report and such other documentation from the department as the director of finance may specify, the director of finance, if satisfied as to the accuracy of the amount of the actual deficiency as reflected in the report and accompanying documentation, shall authorize to be transferred, and to the extent herein provided there is hereby in such event appropriated, to the Alabama state docks department an amount equal to the lesser of (i) the actual amount of any deficiency computed as described herein or (ii) the balance contained in the Alabama state docks bulk handling facility trust fund as of the immediately preceding September 30. Beginning with the 1992-93 fiscal year, the first three hundred thousand dollars (\$300,000) of any moneys remaining in the Alabama state docks bulk handling facility trust fund after such transfer to the Alabama state docks department shall be transferred directly to the Alabama Mining Academy. Five hundred thousand dollars (\$500,000) shall be transferred to the Tuscaloosa County General Fund; five hundred thousand dollars (\$500,000) to the Jefferson County General Fund; and two hundred thousand dollars (\$200,000) to the Walker County Economic and Industrial Development Authority and any remaining moneys shall be credited to the State General Fund. In any year in which the total amount allocated to the Tuscaloosa County General

Fund, the Jefferson County General Fund, and the Walker County Economic and Industrial Development Authority is insufficient to provide the total allocations for the three, the amount that is available shall be prorated among the three in the same proportion as the designated allocations.

"Of the above amount to the Alabama Mining Academy, a small portion of said sum shall be used to retrain Alabama coal miners, who have been terminated from their employment, for other occupational opportunities.

Section 2. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved May 17, 1993

Time: 3:10 P.M.

Act No. 93-681

H. 992 – Reps. McMillan, Penry

AN ACT

To amend Section 11-88-6, Code of Alabama 1975, to further provide for the membership on the board of directors of an authority organized in a county pursuant to Chapter 88, Title 11, Code of Alabama 1975, to provide water service, sewer service, and fire protection service when the service area includes a resort area and the service area is incorporated or annexed into a municipality.

Be It Enacted by the Legislature of Alabama:

Section 1. Section 11-88-6, Code of Alabama 1975, is amended to read as follows:

"§11-88-6.

"(a) Each authority shall be governed by a board of directors. All powers of the authority shall be exercised by the board or pursuant to its authorization.

"(b) The board shall consist initially of three directors, elected, as soon as may be practicable after the organization of the authority, by the governing body of the determining county for staggered terms as follows: The first term of one director shall begin immediately upon his election and shall end at noon on March 1 of the next succeeding odd-numbered calendar year following his election; the first term of another director shall begin immediately upon his election and shall end at noon on March 1 of the second succeeding odd-numbered calendar year following his election and the first term of the remaining director shall begin immediately

upon his election and shall end at noon on March 1 of the third succeeding odd-numbered calendar year following his election. Thereafter, the term of office of each director shall be six years.

“(c) If any amendment to the certificate of incorporation of the authority, effected pursuant to the provisions of section 11-88-5, shall increase the membership of the board, the board shall thereafter consist of such number of directors, elected by such governing bodies, as may be specified in the said amendment. The terms of office of any new directors added by any such amendment shall be so arranged that, taking into consideration the terms of office of the original three directors, the terms of office of approximately one-third of all directors (or as nearly one-third thereof as may be practicable) will end at noon on March 1 in each odd-numbered year following the effective date of the said amendment. The term of office of each new director, added by amendment as aforesaid, shall following the initial term of such new director be for a period of six years. If at any time there should be a vacancy on the board, a successor director to serve for the unexpired term applicable to such vacancy shall be elected by that governing body which elected the director whose unexpired term he is to fill. Each election of a director, whether for a full six year term or to complete an unexpired term, shall be made not earlier than 30 days prior to the date on which such director is to take office as such. No officer of the state or of any county or municipality shall, during his tenure as such officer, be eligible to serve as a director.

“(d) Each director elected by a county governing body shall be a duly qualified elector of that county and shall be a resident of and the owner of real property in that part of the service area of the authority which lies within that county. Directors shall be eligible for reelection. Each director shall be reimbursed for expenses actually incurred by him in and about the performance of his duties. If the certificate of incorporation so provides, each director except the chairman of the board shall be compensated in an additional amount not to exceed fifty dollars (\$50) per meeting attended but not to exceed eight hundred dollars (\$800) per year. The chairman shall, if the certificate so provides, be compensated in an additional amount not to exceed fifty dollars (\$50) per meeting attended but not to exceed one thousand five hundred dollars (\$1,500) per year.

“(e) Any director of the authority may be impeached and removed from office in the same manner and on the same grounds provided by section 175 of the Constitution of Alabama and the general laws of the state for impeachment and removal of the officers mentioned in said section 175.

“(f) If the service area, or the greater part thereof, in which an authority is authorized by its certificate of incorporation or any amendment thereto to render water service, fire protection service,

sewer service or any one or more thereof, includes a resort area pursuant to Article 2 of this chapter and the service area is incorporated or annexed into a municipality subsequent to the creation of an authority, and if the municipality has assumed and taken over the fire protection responsibility and the sewer service originally placed upon the authority, the board of directors of the authority shall be increased in membership by a sufficient number of new members to increase membership on the board of directors to a maximum of seven members. Each of the new members to the board of directors shall be appointed by the governing body of the municipality by ordinance duly adopted. The first term of each new member so appointed shall be staggered for terms of one, two, three, and four years, as needed. Thereafter, the term of the new members added pursuant to this subsection shall be six years. The governing body of the determining county shall continue to make appointments and fill vacancies as heretofore authorized. After the effective date of the act adding this subsection the governing body of the municipality shall make appointments and fill vacancies as provided in this subsection. All members of the board of directors of the authority shall have all the authority, privileges, immunities, and qualifications as provided in this article."

Section 2. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved May 18, 1993

Time: 3:15 P.M.

Act No. 93-682

H.J.R. 555 – Rep. Knight (A)

HOUSE JOINT RESOLUTION

MOURNING THE DEATH OF BILLY WAYNE OAKS OF BIRMINGHAM, ALABAMA.

WHEREAS, it is with deep sorrow and regret that the Alabama Legislature records the untimely death of Billy Wayne Oaks on May 11, 1993, at the age of just 61 years; and

WHEREAS, Bill Oaks, born on March 8, 1932, in Darken, Alabama, was a graduate of Sylacauga High School, served in the United States Navy, and received his degree in electrical engineering from Auburn University; and

WHEREAS, he was employed with Alabama Power Company for thirty years, and retired as Birmingham District Manager in 1989, having served with distinction throughout his career; and

WHEREAS, his service to his profession and the community was both generous and varied; he was a registered professional engineer, and a member of Eta Kappa Nu Electrical Engineering Honorary Society, Board of Directors of the Industrial Health Council and Birmingham's Downtown Activities Committee; and

WHEREAS, he further was a member and former chapter president of the National Management Association, served as advisor to Junior Achievement, and was a supporter of United Way; and

WHEREAS, at the time of his lamentable death, Bill Oaks had resided in the Shadowbrook Subdivision for sixteen years, and he was the author of the Shadowbrook Homeowners' Association Bylaws; he also was a founding member of the Shadowbrook Poker Club and, for fourteen years, faithfully attended all meetings, contributing greatly to the group's serious pursuits; and

WHEREAS, Bill Oaks was, without exception, a gentleman in both his personal and professional relations, always exhibiting concern for those he encountered, and his death has left an unfathomable void in the life of the community, and in the hearts of all those whose lives he touched; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That we grievously mourn the death of Billy Wayne Oaks of Birmingham, Alabama, and extend our very deepest sympathy to his wife, Marie Taylor Oaks; son, Matthew R. Oaks; daughter, Terri Ellis; and to other family members, whose sorrow we share and for whom a copy of this resolution shall be provided.

Approved May 18, 1993

Time: 1:00 P.M.

Act No. 93-683

H. 943 – Rep. Holladay

AN ACT

To alter, rearrange, and extend the boundary lines and corporate limits of the municipality of Ashville in St. Clair County.

Be It Enacted by the Legislature of Alabama:

Section 1. The boundary lines and corporate limits of the municipality of Ashville in St. Clair County are altered, rearranged, and extended to include within the corporate limits of the municipality, in addition to the lands now included, all of the following territory:

1: Range Three East, Township Thirteen South, all of Section Twenty-five, all of Section Thirty-six, the East one-half of Section Thirty-five, the South one-half of Section Twenty-four.

2: Range Three East, Township Fourteen South, all of Section One, all of Section Twelve, all of Section Thirteen, all of Section Twenty-four, the East one-half of Section Two, the East one-half of Section Eleven, the East one-half of Section Fourteen, the East one-half of Section Twenty-three.

3: Range Four East, Township Thirteen South, the West one-half of Section Nineteen.

4: Range Four East, Township Fourteen South, all of Section Five, all of Section Six, all of Section Seven, all of Section Eight, all of Section Seventeen, all of Section Eighteen, all of Section Nineteen, the South one-half of Section Nine, the North one-half of Section Sixteen.

Section 2. In accordance with Section 11-42-6(b) of the Code of Alabama 1975, a map showing what territory is proposed to be annexed to the municipality of Ashville is on file in the office of the Judge of Probate in St. Clair County, Alabama, and the map is open to the inspection of the public.

Section 3. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved May 19, 1993

Time: 5:30 P.M.

Act No. 93-684

H. 956 – Rep. Mathis

AN ACT

Providing for a board of education for the City of Dothan, to be elected by the qualified electors of the city; providing that six members of the board shall be elected from defined school districts; providing that the chair shall be elected from the city at-large; providing for the terms of office, qualifications, and compensation of the members; prescribing procedures for electing the members and for filling vacancies on the board; providing for board representation for persons not residing within a specific school district; providing certain immunity for the board members; providing for financial audits of the records of the board; and providing that this act shall become effective upon the ratification of an amendment to the Constitution of Alabama 1901, authorizing an elected school board for the City of Dothan.

Be It Enacted by the Legislature of Alabama:

Section 1. There is established a school board for the City of Dothan, Alabama, which board shall be called "The Dothan City Board of Education". Members of the board shall be elected by vote of the qualified electors of the City of Dothan. The board shall be composed of seven members, with one member being elected from each of the six school districts as defined in Section 2 of this act, and the chair being elected from the city at-large.

Section 2. The school districts shall be geographically identical to the districts from which the six commission members of the City of Dothan are elected. If the boundaries of a city commission district should be changed for any reason, the boundaries of the corresponding school board district within the City of Dothan shall automatically change accordingly without the necessity of further action by the Legislature.

Section 3. Candidates for each place on the city board of education shall be at least 21 years of age, residents of the school board district which they seek to represent on the board for at least 90 consecutive days immediately preceding the deadline date for qualifying as a candidate, and shall not have a record of conviction for any crime involving moral turpitude. Candidates for chair shall have the same qualifications as others except they shall have been a resident of the city for 90 days instead of the district. The qualification fee for the first election to be held for the board created by this act shall be twenty-five dollars (\$25) for each candidate. Thereafter, each candidate shall pay a qualifying fee prescribed by the Dothan City Commission not later than six months prior to the qualifying deadline as provided by law.

Section 4. Elected school board members shall serve for staggered four-year terms. Within 30 days after the ratification of an amendment to the Constitution of Alabama of 1901 providing for the election of the Dothan City Board of Education, the city commission shall call for a special primary election for the members of the board of education. The special primary shall be held at a time that will allow the general election for board members to be held in conjunction with the General Election in November 1994. The school board members elected from school board districts No. 2, No. 4, and No. 6 at the election shall serve initial terms of two years. Board members elected from school board districts No. 1, No. 3, and No. 5, and the chair elected from the city at-large, shall serve initial terms of four years. Board members shall serve from the date on which they are sworn into office until the swearing in of their successors following the next regularly scheduled school board elections. Terms of office for the initially elected board members shall commence at noon on the first Monday of the month following their election. Subsequent school board elections shall be called by the city at the same time as state elections and in conformity with the applicable state laws for the elections.

Section 5. A vacancy in the city board of education shall be filled by appointment by a majority of the remaining members of the city board of education for the unexpired term. In the event the vacancy is not filled by the remaining members of the city board within 30 days, the State Superintendent of Education shall fill the vacancy by appointment. The city superintendent of education shall notify the State Superintendent of Education when a vacancy on the city board of education has not been filled within 30 days.

Section 6. In the event no candidate receives a majority of all of the votes cast for any one or more positions on the school board, the city commission shall order a run-off election to be held separately or in conjunction with any scheduled primary, special, or general election, at which election the two candidates receiving the most votes for the office in the initial election shall be the only candidates. The candidate receiving the most votes in the run-off election shall be declared as elected. In the event of a tie vote between the run-off candidates, the city commission shall decide the election by majority vote at a special meeting called for the purpose by the commission's presiding officer.

Section 7. All members of the elected city school board created by this act shall represent the interests of any student of the city school system who is not otherwise represented by a certain district school board member as provided for in this act.

Section 8. The compensation for the members of the school board shall be one hundred dollars (\$100) per month to be paid from city school system funds. The board may change this amount by majority vote thereof, which changes must be made not later than six months prior to the deadline for qualification of candidates for seats on the board of education. Thereafter, the compensation as set by the board from time to time shall be in effect for successor boards.

Section 9. The board of education shall have the financial records of the Dothan School System audited at least annually by an independent auditing firm with the results of the audit being a matter of public record.

Section 10. The members of the board shall have the powers, authority, duties, and responsibilities as are otherwise provided by law for members of boards of education as set forth in Chapter 11, Title 16, Code of Alabama 1975.

Section 11. This act shall become effective immediately upon the ratification of an amendment to the Constitution of Alabama 1901, authorizing an elected board of education for the City of Dothan, Alabama.

Approved May 19, 1993

Time: 5:31 P.M.

Act No. 93-685

H. 961 – Reps. Fuller, Laird

AN ACT

Relating to Chambers County; providing for additional costs and charges in all circuit and district court cases, excluding the small claims division; providing for the establishment of a Juvenile Court Services Fund and a Judicial Administration Fund in the county; and providing for the distribution of the funds.

Be It Enacted by the Legislature of Alabama:

Section 1. (a) In addition to all other costs and charges in circuit and district court cases in Chambers County, a fee of three dollars (\$3) shall be charged and collected by the clerk of the court. This charge shall not be collected on small claims cases. When collected by the clerk of the court, two dollars (\$2) shall be remitted monthly to the Juvenile Court Services Fund and one dollar (\$1) shall be remitted monthly to the Judicial Administration Fund.

(b) A monthly supervision fee may be assessed in Juvenile Court cases at the discretion of the Juvenile Court Judges. The supervision fee shall be collected by the Juvenile Court Office and deposited in the Juvenile Court Services Fund.

(c) There is established a Juvenile Court Services Fund for the deposit of proceeds from two thirds of the court costs imposed by subsection (a). The fund shall be maintained in an interest bearing account in a bank of known responsibility under the supervision of the Juvenile Court Judges of Chambers County.

(d) The funds appropriated from this fund shall be expended solely for juvenile programs and for subsistence for the Juvenile Court staff in the county; to aid the functions of the Juvenile Court; and for the benefit of the children of Chambers County. The funds expended shall be authorized by the Juvenile Court Judges of Chambers County.

(e) There is established a Judicial Administration Fund for the deposit of the proceeds from one third of the court costs imposed by subsection (a). The fund shall be maintained in an interest bearing account in a bank of known responsibility by the Presiding Circuit Court Judge for the Fifth Judicial Circuit.

(f) The funds appropriated from the Judicial Administration Fund shall be expended for increasing the efficiency of Judicial Administration in Chambers County, to include, but not limited to, training an education enhancement of judicial personnel in Chambers County. The funds expended shall be authorized by the Presiding Circuit Court Judge of the Fifth Judicial Circuit.

Section 2. The provisions of this act are severable. If any part of this act is declared invalid or unconstitutional, that declaration shall not affect the part which remains.

Section 3. All laws or parts of laws which conflict with this act are repealed.

Section 4. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved May 19, 1993

Time: 5:32 P.M.

Act No. 93-686

H. 962 – Reps. Fuller, Laird

AN ACT

Relating to Chambers County; authorizing the county commission to levy an additional one-half cent sales and use tax; providing for the collection, distribution, and use of the proceeds of the tax to retire the current indebtedness of the county; prescribing penalties and fixing punishment for violation of this act; providing for a referendum; and providing for a termination date.

Be It Enacted by the Legislature of Alabama:

Section 1. This act shall only apply to Chambers County.

Section 2. As used in this act, state sales and use tax means the tax imposed by the state sales and use tax statutes, including, but not limited to, Sections 40-23-1, 40-23-2, 40-23-3, 40-23-4, 40-23-60, 40-23-61, 40-23-62, and 40-23-63 of the Code of Alabama 1975.

Section 3. The County Commission of Chambers County may, in its discretion, levy, in addition to all other taxes, including, but not limited to, municipal gross receipts license taxes, a one-half cent privilege license tax against gross sales or gross receipts for a period of six years or a one-cent privilege license tax against gross sales or gross receipts for a period of three years. The county commission shall make the determination as to the amount and length of the levy of the tax and shall publish the notice of amount and length prior to the election held pursuant to Section 9 of this act. Notwithstanding the foregoing, the amount of the tax authorized to be levied pursuant to this act upon each person, firm, or corporation engaged in the business of selling at retail machines used in mining, quarrying, compounding, processing, and manufacturing of tangible personal property, and any parts of such machines or any motor vehicle, truck trailer, semitrailer, or house trailer shall be one-half of one percent of the sales price. Provided, however, when any used motor vehicle, truck trailer,

semitrailer, or house trailer is taken in trade, or in a series of trades, as a credit or part payment on the sale of a new or used vehicle, the tax authorized to be levied herein shall be paid on the net difference, that is, the price of the new or used vehicle sold less the credit for the used vehicle taken in trade.

The gross receipts of any business and the gross proceeds of all sales which are presently exempt under the state sales and use tax statutes are exempt from the tax authorized by this act.

Section 4. The tax levied by the county commission pursuant to this act shall be collected by the State Department of Revenue or otherwise as provided by resolution of the Chambers County Commission at the same time and in the same manner as state sales and use taxes are collected. On or prior to the date the tax is due, each person subject to the tax shall file with the department a report in the form prescribed by the department. The report shall set forth, with respect to all sales and business transactions that are required to be used as a measure of the tax levied pursuant to this act, a correct statement of the gross proceeds of all the sales and gross receipts of all business transactions. The report shall also include items of information pertinent to the tax as the department may require. Any person subject to the tax levied pursuant to this act may defer reporting credit sales until after their collection, and in the event the person defers reporting them, the person shall thereafter include in each monthly report all credit collections made during the preceding month, and shall pay the tax due at the time of filing the report. All reports filed with the department under this section shall be available for inspection by the county commission, or its designee.

Section 5. Each person engaging or continuing in a business subject to the tax levied pursuant to this act, shall add to the sales price or admission fee and collect from the purchaser or the person paying the admission fee the amount due by the taxpayer because of the sale or admission. It shall be unlawful for any person subject to the tax to fail or refuse to add to the sales price or admission fee and to collect from the purchaser or person paying the admission fee the amount required to be added to the sale or admission price. It shall be unlawful for any person subject to the tax levied pursuant to this act to refund or offer to refund all or any part of the amount collected or to absorb or advertise directly or indirectly the absorption or refund of any portion of the tax.

Section 6. The tax levied pursuant to this act shall constitute a debt due Chambers County. The tax, together with any interest and penalties, shall constitute and be secured by a lien upon the property of any person from whom the tax is due or who is required to collect the tax. The department shall collect the tax,

enforce this act, and have and exercise all rights and remedies that the state or the department has for collection of the state sales and use tax. The department may employ special counsel as is necessary to enforce collection of the tax levied pursuant to this act and to enforce this act. The department shall pay the special counsel any fees it deems necessary and proper from the proceeds of the tax collected by it for Chambers County.

Section 7. All provisions of the state sales and use tax statutes with respect to the payment, assessment, and collection of the state sales and use tax, making of reports, keeping and preserving records, penalties for failure to pay the tax, promulgating rules and regulations with respect to the state sales and use tax, and the administration and enforcement of the state sales and use tax statutes which are not inconsistent with this act shall apply to the tax levied pursuant to this act. The State Commissioner of Revenue and the department shall have and exercise the same powers, duties, and obligations with respect to the tax levied pursuant to this act that are imposed on the commissioner and department by the state sales and use tax statutes. All provisions of the state sales and use tax statutes that are made applicable by this act to the tax levied pursuant to this act, and to the administration and enforcement of this act, are incorporated by reference and made a part of this act as if fully set forth herein.

Section 8. The department shall charge Chambers County for collecting the tax levied pursuant to this act in an amount or percentage of total collections as may be agreed upon by the commissioner and the Chambers County Commission. The charge shall not exceed five percent of the total amount of the tax collected in the county. The charge may be deducted each month from the gross revenues from the tax before certification of the amount of the proceeds due Chambers County for that month. The Commissioner of Revenue shall pay into the State Treasury all amounts collected under this act, as the tax is received by the department on or before the first day of each successive month. The commissioner shall certify to the State Comptroller the amount collected and paid into the State Treasury for the benefit of Chambers County during the month immediately preceding the certification. The State Comptroller shall issue a warrant each month payable to the County Treasurer of Chambers County in an amount equal to the certified amount which shall be paid into the county general fund to be used to retire the bonded indebtedness of the county incurred by the issuance and sale of bonds in 1990.

Upon the expiration of either three years or six years pursuant to Section 3 from the first levy of the tax by the Chambers County Commission, as appropriate, the tax levied pursuant to this act

shall terminate and the provisions of this act and the tax shall automatically become null and void.

Section 9. This act shall be inoperative and void unless it is approved by a majority of the qualified electors of the county who vote thereon at the next general election in the county or at a special election held for that purpose. The election shall be held and conducted as are elections on constitutional amendments on a date determined by the county commission. Notice of the election shall be given by the judge of probate and shall be published once a week for three successive weeks before the day of the election. On the ballots used at the election, the proposition to be voted on shall be stated substantially as follows:

“Do you favor the local law authorizing the county commission to levy a sales and use tax to be used to retire the bonded indebtedness incurred by the sale of bonds in 1990? Yes ____ No ____.”

If a majority of the votes cast at the election are affirmative votes, this act shall have full force and effect on the first day of the second month following the election. If a majority of the votes cast are negative votes, this act shall have no further effect. The judge of probate shall certify the results of the election to the Secretary of State.

Section 10. This act shall become effective on January 1, 1994 following its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved May 19, 1993

Time: 5:33 P.M.

Act No. 93-687

H. 974 – Rep. Holladay

AN ACT

To amend Sections 2, 4, and 5 of Act No. 91-710, H. 312, 1991 Regular Session (Acts 1991, p. 1378), relating to St. Clair County and providing for the operation of bingo games for prizes or money by qualified organizations for certain purposes, to provide for the definition of a qualified organization, to provide for the annual and special permit fee, and to provide for the collection and distribution of fees for bingo cards.

Be It Enacted by the Legislature of Alabama:

Section 1. Sections 2, 4, and 5 of Act No. 91-710, H. 312, 1991 Regular Session (Acts 1991, p. 1378), are amended to read as follows:

“Section 2. The following words and phrases used in this act shall have the following respective meanings unless the context clearly indicates otherwise:

“(1) ‘Bingo’ means that game commonly known as bingo where numbers or symbols on a card are matched with numbers or symbols selected at random.

“(2) ‘Qualified organization’ means a bona fide religious, service organization, or veterans organization which operates without profit to its members and has been in existence continuously as such an organization for a period of 24 months in St Clair County and has been classified as a tax exempt nonprofit organization by the Internal Revenue Service, United States Government.

“(3) ‘Person’ means any human being, corporation, association, or other legal entity.

“(4) ‘Permit holder’ means a qualified organization which has been issued a permit or license pursuant to this act.

“(5) ‘Location’ means a single building, hall, enclosure, or outdoor area used for the purpose of playing bingo pursuant to a permit or license issued under this act.

“(6) ‘Bingo session’ means a consecutive period of time not to exceed five consecutive hours during which bingo is played in a given day and not to exceed three such days in a given week, except for special permit holders.

“Section 4. (a) No qualified organization shall be permitted to operate a bingo game unless the sheriff first issues a permit to the organization authorizing it to do so. The permit described in this act is in addition to, and not in lieu of, any other business licenses which may be required by law, and no bingo game shall be operated until such time as all required licenses have been obtained. A permit holder may hold only one permit and that permit is valid for only one location. A permit is not assignable or transferable.

“(b) Any qualified organization desiring to obtain a permit to operate bingo games in a calendar year shall make application to the sheriff on forms prescribed by the sheriff and shall pay an annual fee of two hundred fifty dollars (\$250). Renewal applications shall also be filed with the sheriff. The sheriff shall refuse to grant a bingo permit to any applicant who fails to fully provide the information required by this subsection. Each applicant for a permit shall evidence its prior existence for at least 24 months in St Clair County and provide the following information:

“(1) The name and home address of the applicant, and if the applicant is a corporation, association or other similar legal entity, the names and home addresses of each of the officers of the organization, as well as the names and addresses of the directors, or other persons similarly situated, of the organization.

"(2) The names and home addresses of each of the persons who will be operating or promoting the bingo game.

"(3) The names and home addresses of any persons, organizations or other legal entities that will act as surety for the applicant.

"(4) The location at which the applicant will conduct the bingo games.

"(5) A statement showing the convictions, if any, for criminal offenses, other than minor traffic offenses, of each of the persons listed in subdivisions (1), (2) and (3) above.

"(c) Permits may be amended upon resubmission of application, surrender of permit, and payment of a \$10.00 fee.

"Section 5. (a) A qualified organization which does not hold a permit pursuant to Section 4 of this act may apply for a special permit for conducting a bingo session at a designated location for a special occasion. Such an applicant shall submit to the sheriff a written application prepared in accordance with and on a form prescribed by rule of the sheriff. The application shall include the information required by subsection (b) of Section 4 of this act, except that the applicant shall indicate the day or days on which the applicant will conduct the bingo session for the special occasion. Upon a determination by the sheriff that the applicant is a qualified organization and is not ineligible pursuant to Section 14 of this act and upon the applicant's payment of the required fee under this subsection to the sheriff's department, the sheriff may issue a special permit. The special permit fee shall be twenty-five dollars (\$25) per day.

"(b) A special permit shall contain the name and address of the permit holder and shall specify the location and the day on which the permit holder may conduct the bingo session.

"(c) Up to six special permits for one day each, not to exceed 10 hours, may be issued per qualified organization per year. Such days may be consecutive.

"(d) Special permits are not transferable or assignable.

"(e) All fees collected by the nonprofit organization on bingo cards shall be remitted by the organization to the tax collector or revenue commissioner of the county. The county commission shall distribute the funds in the manner provided by law on a semi-annual basis during the first 10 days after the end of the months of June and December of each year."

Section 2. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved May 19, 1993

Time: 5:34 P.M.

Act No. 93-688

H. 988 – Rep. Walker

AN ACT

Relating to the 15th Judicial Circuit of Alabama; to provide for the supplemental salaries of the district judges of the 15th Judicial Circuit; and to specifically repeal Act No. 84-479, H. 956 of the 1984 Regular Session (Acts 1984, p. 1100).

Be It Enacted by the Legislature of Alabama:

Section 1. Each district judge in the 15th Judicial Circuit shall, in addition to the salary paid by the state, receive a supplemental salary from the general fund of the county composing the judicial circuit. The supplemental salary shall at all times equal 90 percent of the total supplementary salary paid by the county to each circuit judge and shall be paid in equal installments at the same times and in the same manner that the salaries of the county employees are paid. The Montgomery County Commission shall pay the supplemental salary to each district judge out of the funds of the county or any other funds available for this purpose. The salary is in lieu of any other supplemental salary paid by the county and represents the total supplemental salary to be provided by the county for the district judges.

Section 2. All laws or parts of laws which conflict with this act are repealed, specifically Act No. 84-479, H. 956 of the 1984 Regular Session (Acts 1984, p. 1100).

Section 3. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved May 19, 1993

Time: 5:35 P.M.

Act No. 93-689

H. 994 – Rep. Laird

AN ACT

Relating to Randolph County; to create a license-issuing division within the office of the revenue commissioner for the issuance of certain licenses; to provide for the selection of personnel for the license-issuing division; to provide certain duties for the division; to provide for an optional procedure for the renewal of motor vehicle licenses in the county; to authorize certain additional fees and costs for the system of renewal of motor vehicle licenses; to provide that the fees shall be established by the county commission to pay the cost of mailing tags or decals; to prescribe more convenient and efficient procedures for the assessing and collecting of certain taxes; to provide for the issuance of licenses by the office of the revenue

commissioner; to provide that the salary of the revenue commissioner not be increased for the performance of these additional duties.

Be It Enacted by the Legislature of Alabama:

Section 1. In Randolph County a license division is created within the office of the revenue commissioner. The license division shall issue all motor vehicle licenses.

Section 2. The revenue commissioner shall perform all duties relating to the assessment and collection of taxes on motor vehicles in the county. Reporting and remitting of the tax shall be made at the same time as other reports and remittances are now made by the revenue commissioner.

Section 3. The revenue commissioner shall keep at all times an accurate record of all licenses received by him or her from the State Comptroller, the disposition made of them, all monies received, and the licenses issued by him or her. The revenue commissioner shall report to the State Comptroller at the same time and in the same manner that the judges of probate are required to do under the general law. All unissued licenses and stubs or duplicates or carbon copies of licenses issued shall be accounted for in the manner required by law. The judge of probate is hereby relieved of any and all responsibilities relating to the issuance of motor vehicle licenses or the filing of any reports relating thereto.

Section 4. Except as provided in this act, the revenue commissioner may charge and collect the same fees that are provided for by law. For the performance of duties relative to the recording of the transfer of the ownership of motor vehicles as prescribed in the Code of Alabama 1975, the revenue commissioner shall charge and collect an additional fee of three dollars (\$3). All fees shall be the property of the county and shall be paid to the county general fund. Refunds for licenses issued by mistake or fact of law shall be made under conditions and in the manner prescribed by the Code of Alabama 1975.

Section 5. To prevent motor vehicles from escaping taxation and to provide for a more efficient procedure for assessment and collection of taxes due, the revenue commissioner shall not issue any licenses to operate motor vehicles on the public highways of this state, nor shall any transfer be made by the revenue commissioner until the ad valorem tax on the vehicles has been paid to the county for the preceding year as evidenced by receipt from the revenue commissioner. No motor vehicle which is owned by a resident of the county or by a business located in the county, or which is otherwise located in the county for licensing purposes, may be operated on the public highways of Alabama unless the motor vehicle has been returned to the tax collector for ad valorem tax purposes. The revenue commissioner shall issue a certificate of assessment on a form prescribed by the State Department of Revenue, shall collect the taxes shown, and shall

make a duplicate of the tax receipt and keep same on file in his or her office. The license tag shall be evidence of the payment of the license and ad valorem tax due as provided under this act.

Section 6. Before any vehicle can be assessed, the revenue commissioner shall be furnished the current tag number on the vehicle unless the vehicle is new, in which case, the revenue commissioner shall be furnished a bona fide bill of sale from the dealer showing the date the vehicle was bought new. In the case of a used car brought into the state from a state that provides that upon sale or transfer of the motor vehicle the tags are either surrendered to an appropriate authority or subsequently reissued by the seller, the revenue commissioner shall be furnished a bona fide certificate of title properly assigned which shows when the car was sold to an individual, firm, corporation, or association, living or operating in this state. If the tag number, bill of sale, or certificate of title is not furnished, the vehicle will be presumed to have been in the state the entire year for which taxes are being assessed. Motor vehicles brought into the state during any tax year or new motor vehicles for which motor vehicle licenses have not been issued that were sold from the stock of a dealer during any tax year, shall be subject to taxation as if they had been held or owned in the state on the first day of October.

Section 7. The revenue commissioner may mail an application for renewal of licenses to whom the license has been previously issued and the renewal forms shall be required to be returned prior to the expiration date of the license. The renewal forms may be in postcard form and shall contain sufficient information thereon to adequately identify and process the renewal. The signature of the licensee thereon and proper remittance shall constitute sufficient authority for the revenue commissioner to issue the license and return it to the licensee by mail. There is established a fee to be entitled "Mail Order Fee" in an amount determined by the county commission to pay the cost of the mailing procedure authorized by this section. The fee shall be collected by the revenue commissioner at the time of issuance and paid over to the county general fund as are other fees and commissions.

Section 8. The revenue commissioner shall not receive any additional salary or other compensation for implementing this act.

Section 9. The license division established by this act shall be entitled the Randolph County One-Stop Motor Vehicle Office.

Section 10. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved May 19, 1993

Time: 5:36 P.M.

Act No. 93-690

H. 996 – Rep. Bowling

AN ACT

Relating to the 32nd Judicial Circuit and the City of Cullman; to levy certain additional costs and charges of court, to provide that the cost and charges be placed in a special D.A.R.E. (Drug Abuse Resistance Education) Fund, to fund the D.A.R.E. program, establish a governing board, and provide for disbursement of the funds.

Be It Enacted by the Legislature of Alabama:

Section 1. This act shall be operative only in Cullman County.

Section 2. (a) Notwithstanding any special, local, or general law to the contrary, there is levied additional court costs and charges as follows:

1. All Traffic Tickets (not involving alcohol, drugs, or both)\$ 5.00
2. All Misdemeanor Alcohol arrests10.00
3. All Misdemeanor Drug arrests20.00
4. All Misdemeanor D.U.I. arrests25.00
5. All other Misdemeanor arrests5.00
6. All Felony Alcohol arrests50.00
7. All Felony Drug arrests (excluding Trafficking cases)50.00
8. All Felony D.U.I. arrests50.00
9. All Drug Trafficking arrests100.00
10. All other Felony arrests10.00

(b) The above fee shall be levied in all criminal cases including, but not limited to, felony cases, misdemeanor cases, and traffic violation cases, whose jurisdiction is in the Circuit Court of the 32nd Judicial Circuit, the District Court of Cullman County, and the City of Cullman Municipal Court. The costs and charges levied by this act shall be in addition to all other costs and charges presently levied and shall be collected as other costs and charges. The levy of the costs and charges shall commence on the effective date of this act, and all cases pending at that time shall be subject to the levy of costs and charges.

(c) All money derived from the costs and charges shall be remitted to the county treasurer who shall place the fees collected

in a special fund known as the "D.A.R.E. (Drug Abuse Resistance Education) Fund," for the purpose of funding the D.A.R.E. program in all Cullman City and Cullman County schools.

(d) Disbursement and administration of the fund shall alternate every five years between the Cullman City Government and the Cullman County Government, with the Cullman County Government initially administering the fund.

(e) Disbursements will be made at the rate of \$15 per child based on the enrollment of each school system participating in the D.A.R.E. program.

(f) The annual allocation may be used for the following items: Workbooks, pencils, bumper stickers, name cards, stickers, T-shirts, book markers, special student awards, culmination certificates and culmination refreshments.

Section 3. Each law enforcement agency providing D.A.R.E. officers shall be reimbursed from this sources of funds for all initial D.A.R.E. officer training expenses resulting from the two week basic seminar sponsored by the Department of Treasury as well as for all officer inservice training expenses from the yearly conference sponsored by the National D.A.R.E. Officers Association, and conference sponsored by the Alabama D.A.R.E. Officers Association.

Section 4. Further disbursement of funds would be decided by a governing board made up of the following people:

1. The Chairman of the Cullman County Commission.
2. The Mayor of the City of Cullman.
3. The Sheriff of Cullman County.
4. The Chief of Police of the City of Cullman.
5. The Cullman County Schools Superintendent.
6. The Cullman City Schools Superintendent.
7. A seventh member to be appointed from the business sector and by approval of the other board members.

Section 5. The governing board may approve requests for equipment to be used in the D.A.R.E. classrooms, for vehicles to be used for the D.A.R.E. Program, and either full or partial salaries of additional officers needed to expand the D.A.R.E. Program.

Section 6. The governing board may also approve requests for D.A.R.E. activities taking place outside the classroom.

Section 7. All funds not used would be held in trust and carried over to the next year.

Section 8. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved May 19, 1993

Time: 5:37 P.M.

Act No. 93-691

H. 998 – Rep. Thomas

AN ACT

Relating to Lowndes County, providing for the fee for the issuance of pistol permits, providing for the deposit of such fees in a fund known as the Sheriff's Law Enforcement Fund, providing for the use of such fund and repealing Act No. 81-421, H. 970, 1981 Regular Session.

Be It Enacted by the Legislature of Alabama:

Section 1. In Lowndes County the fee for issuance of a permit to carry a pistol in a vehicle or concealed on or about the person as provided in Title 13A-11-75, Code of Alabama 1975, shall be \$15.00, which shall be collected by the Sheriff.

Section 2. Any and all monies collected under Section 1 of this act shall be deposited by the Sheriff of Lowndes County or his appointed agent in any bank located in Lowndes County selected by the Sheriff, into a fund known as the Sheriff's Law Enforcement Fund. Two dollars of each fee collected shall be paid into the county General Fund on the last day of the month collected.

Section 3. Any and all monies on the effective day of this act in the current Sheriff's Law Enforcement Fund created under Act 81-421, shall be transferred into the new Sheriff's Law Enforcement Fund created by this act. The Sheriff's Law Enforcement Fund created under Act 81-421 shall become null and void on the effective date of this act.

Section 4. The Sheriff's Law Enforcement Fund as provided in Section 2 of this act shall be drawn upon by the Sheriff of Lowndes County or his appointed agent and shall be used exclusively for law enforcement purposes in the public's interest and in the discharge of the sheriff's office as the Sheriff sees fit.

Section 5. The establishment of the Sheriff's Law Enforcement Fund as provided in this act and the use of such funds shall in no way diminish or take the place of any other source of income established for the Sheriff or the operation of his office.

Section 6. All laws or parts of laws in conflict with this act are hereby repealed and specifically Act No. 81-421, H. 970, 1981 Regular Session, is repealed.

Section 7. The provisions of this act are severable. If any part of this act is declared invalid or unconstitutional, that declaration shall not affect the part which remains.

Section 8. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved May 19, 1993

Time: 5:38 P.M.

Act No. 93-692

H. 908 – Rep. Butler

AN ACT

Regulating the liquor traffic in Madison County; requiring certain businesses that permit customers to bring alcoholic beverages to the business for on premise consumption to have an Alcoholic Beverage Control Board License.

Be It Enacted by the Legislature of Alabama:

Section 1. In Madison County, any business in the unincorporated area which features topless dancing and permits customers to bring alcoholic beverages to the business for on premise consumption fostered by the business either through sales of non-alcoholic beverages for use as mixers with alcoholic beverages or through charges for refrigeration of the alcoholic beverages, shall have an appropriate Alcoholic Beverage Control Board License to continue in the business of permitting on premise consumption of alcoholic beverages after the effective date of this act.

Section 2. In Madison County, any business in the unincorporated area which features topless dancing and permits customers to bring alcoholic beverages to the business for on premise consumption shall have an appropriate Alcoholic Beverage Control Board License to continue in the business of permitting on premise consumption of alcoholic beverages after the effective date of this act.

Section 3. This act is supplemental to Act 92-242 approved April 28, 1992, and any other laws regulating the liquor traffic in Madison County.

Section 4. The provisions of this act are severable. If any part of this act is declared invalid or unconstitutional, that declaration shall not affect the part which remains.

Section 5. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved May 19, 1993

Time: 5:39 P.M.

Act No. 93-693

H. 920 – Reps. Carothers, Beasley

AN ACT

Relating to Houston County, to provide for the work and temporary release or pre-trial release, at the Court's discretion, of certain prisoners in county or city jails for the purpose of working at gainful employment or for other rehabilitative purposes; to provide punishment for escape; to provide for the Houston County Work Release and Pretrial Release Fund and for the disposition of prisoner earnings, including support and maintenance cost to the county; to set standards for judicial officers in the county for the pre-trial release of those persons accused of crimes; to establish penalties for failure to appear or for violation of release conditions; to provide for the forfeiture of security deposits to insure the attendance of the defendant; to create the Houston County Work Release and Pre-Trial Release Commission; to provide for the membership of the commission and for its powers and duties; to authorize Houston County and the Houston County Commission, in its discretion, to provide funding for or in-kind services to the Houston County Work Release and Pre-Trial Release Commission; and to repeal conflicting laws.

Be It Enacted by the Legislature of Alabama:

SECTION 1. A person who has been sentenced or committed to the county jail in Houston County, from a city court, district court, circuit court or other court with appropriate jurisdiction, under a criminal sentence, including a person sentenced to a state prison or into the custody of the Department of Corrections who has been deemed not to be a threat to the community and who has not been transferred to a Department of Corrections' facility may be released at the discretion of the sentencing court, either on its motion or upon the motion of the defendant, at the time of sentence or at any time during the term of sentence, for the purpose of obtaining and working at gainful employment or for other purposes as the court may deem conducive to rehabilitation, for such time or intervals of time and under the terms and conditions as the court may order. Any part of a day spent outside of jail under a release order shall be counted as a full day toward serving the sentence, unless otherwise provided by the court. In no event shall the number of days of confinement exceed the number of days of the original sentence. If a person violates the terms and conditions laid down for his or her conduct, custody, and employment, the

person shall be returned to the sentencing court. The court may then require that the balance of the person's sentence be spent in actual confinement and may cancel any earned reduction of the term.

SECTION 2. A person who has been sentenced to the Houston County Jail and who has been ordered released under Section 1 of this act, may at the time of sentence or at any time while any part of the sentence remains unserved, be required by the sentencing court to report to the jail to which the inmate has been sentenced to be incarcerated.

SECTION 3. Any person released under Section 1 of this act or ordered confined under Section 2, who willfully fails to report for confinement as ordered shall be deemed to have escaped from the institution to which he or she has been sentenced and upon conviction shall be subject to the punishment provided for escape.

SECTION 4. (a) The purpose of this act is to promote the rehabilitation of offenders and, insofar as possible, to provide for the Houston County Temporary and Work Release and Pretrial Program and to make the program self-supporting.

(b) A person released from jail for work release shall, as a condition to being released pursuant to this act, pay to the county a sum equal to 30 percent of his or her gross earnings earned while so released. The court having jurisdiction of the case, as a condition to releasing a prisoner, may require that the inmate prisoner establish a payroll deduction for the payment of any sums due. All sums collected, whether by payroll deduction or otherwise, shall be paid over to and collected by the Houston County Commission and deposited to a separate fund designated the "Houston County Work Release and Pre-Trial Release Fund".

(c) If a person violates the terms and conditions set for the payment of the 30 percent of his or her gross earnings earned while so released, he or she shall be returned to the sentencing or committing court. The court may then require that the balance of the person's sentence or time of commitment be spent in actual confinement and may cancel any earned reduction of his or her term.

SECTION 5. (a) Funds collected pursuant to this act shall be expended for its implementation, including but not limited to paying salaries and other expenses involved in:

(1) Screening and making investigations and studies necessary to determine whether or not a particular prisoner will be granted the privileges of this act;

(2) Transporting the prisoner to and from the places of employment;

(3) Matching any Federal or State grants or funds which may be available for the purposes of this act.

(b) If at the end of any calendar year, there remains a surplus in the Houston County Work Release and Pretrial Fund, the surplus shall be paid into the General Fund of Houston County, and the presiding judge of the Twentieth Judicial Circuit shall certify in writing to the Chair of the Houston County Commission that in the judgment of the presiding judge the surplus, or any portion thereof, is in excess of an amount necessary to implement this act.

SECTION 6. It is the intent of the Legislature that this act providing for pre-trial release shall be a guide to specified judicial officers in Houston County, to insure that no person be needlessly detained in the county when release is not contrary to the public interest to assure the defendant's presence at trial. It is not the intent of the Legislature that this act be liberally construed to allow the indiscriminate release of accused or convicted persons.

SECTION 7. As used in this act, the term "judicial officer" means, unless otherwise indicated, any circuit judge or equivalent thereof in the Twentieth Judicial Circuit, any district court judge or equivalent, any district or municipal magistrate whose duties are authorized by law, and any municipal judge or any judge specially sitting by designation of the presiding judge of the Twentieth Judicial Circuit, or equivalent in the county.

SECTION 8. (a) A person in Houston County charged with an offense may, at an appearance before a judicial officer, be ordered released pending a trial on personal recognizance or upon the execution of an unsecured appearance bond in an amount specified by the judicial officer, unless the judicial officer determines, in the exercise of discretion, that release will not reasonably assure the appearance of the person as required.

(b) No person in Houston County charged with an offense shall be considered for the program created by this act until the accused's first appearance before a judicial officer.

(c) In determining which conditions of release will reasonably assure the appearance of a person as required, the judicial officer shall, on the basis of available information as presented by the state, city or their representative, respectively, or the defendant, consider matters such as the nature and circumstances of the offense charged, the weight of the evidence against the person, his or her family ties, employment, financial resources, character and mental condition, past conduct, length of residence in the community, record of convictions, and any record of appearance at court proceedings or of flight to avoid prosecution, or failure to appear at court proceedings. The judicial officer shall, in making factual

determinations, consider that this act has two purposes, one of which is to assure the presence of the defendant at trial and the other of which is to assure that all persons, regardless of their financial or social status, shall not needlessly be detained pending their appearance to answer charges, or pending appeal, when detention serves neither the ends of justice nor the public interest.

(d) A judicial officer authorizing the release of a person under this act shall issue an appropriate order containing a statement of the conditions imposed, if any, inform the person of the penalties applicable to violations of the conditions of his or her release, advise the person that a warrant for arrest will be issued immediately upon any violation, and warn the person of the penalties provided in Section 3.

(e) A judicial officer ordering the release of a person on any condition specified in this section may, subject to law, at any time amend the order of release to impose additional or different conditions of release.

(f) All sums collected under this act shall be paid into the fund established pursuant to the terms of Section 4.

SECTION 9. (a) A person released pursuant to this act who willfully fails to appear before any court or judicial officer as required, shall incur a forfeiture of any security given or pledged for release and, in addition, shall be guilty of a Class B misdemeanor, punishable as provided by the Alabama Criminal Code.

(b) Failure to appear after notice of an appearance shall be prima facie evidence that the failure to appear was willful. Whether the person was warned when released of the penalties for failure to appear, shall be a factor in determining whether the failure to appear was willful. The district attorney, or an assistant district attorney, or any other person responsible for administering this act, shall initiate prosecution for violation of this provision by making an affidavit for a warrant to be issued by any officer authorized to issue warrants. The person who fails to appear shall be arrested and shall be brought before a judicial officer in the county in the same manner as other misdemeanor prosecutions proceed.

(c) A defendant may be convicted under this section, even if the defendant has not received actual notice of an appearance date, if (1) reasonable efforts to notify the defendant have been made, and (2) the defendant, by his or her own actions, has frustrated the receipt of actual notice.

SECTION 10. (a) A person who has been conditionally released pursuant to this act and who has violated a condition of

release, shall be subject to revocation of release and, in addition, may be prosecuted for contempt of court.

(b) A proceeding for revocation of release may be initiated upon notice to the district attorney by the warrant magistrate, assistant warrant magistrate, or any other person responsible for administering this act. A warrant for the arrest of a person charged with violating a condition of release may be issued by an officer authorized to issue warrants, on the affidavit of a person responsible for administering this act. The person arrested under a warrant shall be brought before a judicial officer in the county. An order of revocation shall not be entered unless, after hearing, the judicial officer finds that there is clear and convincing evidence that the person has violated a condition of his or her release due to inattention, negligence, or by a willful act.

(c) Contempt sanctions may be imposed if, upon a hearing and applicable criminal contempt proceedings, it is established that the person violated a condition of release. The contempt proceedings shall be expedited and heard by the court without a jury. A person found guilty of contempt for violation of a condition of release shall be imprisoned for not more than six months, or fined not more than one thousand dollars (\$1,000), or both.

SECTION 11. (a) A person who has been conditionally released pursuant to this act shall be subject to revocation of release if there is probable cause to believe he or she has committed a felony or misdemeanor while released.

(b) A proceeding for revocation of release pursuant to this section, shall be initiated by any person responsible for administering this act giving notice to the district attorney. When the district attorney receives a notice, a warrant for the arrest of a person who is charged with violating the conditions of release pursuant to this section shall be issued by any officer authorized to issue warrants on the affidavit of the district attorney, any assistant district attorney or any person responsible for administering this act. The person arrested under a warrant pursuant to this section shall be brought before a judicial officer in the county. An order of revocation shall not be entered unless, after a hearing, the judicial officer finds by clear and convincing evidence that: (1) a state or federal magistrate, judge, or judicial officer, or grand jury has found probable cause to believe that the person has committed a felony or misdemeanor, and (2) the act on which the felony or misdemeanor is based was committed while the person was released under this act.

SECTION 12. All forfeitures of cash or other security deposited with the clerk of any court, and all deposits otherwise retained pursuant to this act, shall be paid over to the Houston

County Work Release and Pretrial Release Fund to be used to implement this act.

SECTION 13. (a) There is hereby created the Houston County Work Release and Pretrial Release Commission, hereinafter called the "commission". The commission shall be composed of seven persons, including the following: the Sheriff of Houston County, the District Attorney of the Twentieth Judicial Circuit, the presiding judge of the circuit, the presiding district court judge, one associate district court judge appointed by the presiding district court judge, the Chair of the Houston County Commission or another Houston County Commissioner appointed by the chair, and the Clerk of the Circuit Court of Houston County. The chair of the commission shall be elected by the commission from among its membership annually at its first meeting of each calendar year.

(b) The commission shall implement this act and generally supervise and administer the functions pursuant to this act, subject to the duly promulgated rules of court. The commission shall not direct any judicial officer in the exercise of his or her judicial functions. The commission may employ, direct, supervise, and dismiss personnel, except judicial officers, to implement this act.

(c) The commission shall make a continuing study of all activities conducted pursuant to this act and shall recommend to the Legislature any changes in the law which it deems to be appropriate to implement and facilitate the purposes of this act.

(d) An agreement for the merger of the work release program provided for by this act, with any similar program operated by the Department of Corrections or any other department, agency or bureau of the State of Alabama shall not be effective without the approval of the commission and, unless approved by such Commission, shall be of no force and effect.

(e) The commission may issue subpoenas to compel the attendance of witnesses before the commission.

(f) The commission is designated as the agency to apply for, receive, and administer any grants of funds to be used to carry out this act from the United State Government or any of its agencies, the State of Alabama, or any of its agencies, or a private or quasi-governmental foundation, corporation, firm, or agency. All funds received to the account of the Commission shall be deposited to the fund established by Section 4 of this act and shall be disbursed by the Houston County Commission upon vouchers submitted by the Houston County Work Release and Pretrial Release Commission.

(g) The commission shall make its own rules for conducting its affairs. All meetings of the commission shall be in the Houston

County Courthouse and shall be held at the call of the duly elected chair. The chair shall call a meeting of the commission upon request in writing of any three members of the commission.

SECTION 14. This act shall not interfere with or prevent any court of competent jurisdiction in Alabama to punish for contempt or impose sanctions.

SECTION 15. Houston County through the Houston County Commission is hereby authorized to provide, in its sole discretion, any funding, in-kind service or other aid of any type deemed necessary by the Houston County Commission to the Houston County Work Release and Pre-trial Release Commission for the purpose of effectuating the purposes of this act. Notwithstanding the foregoing, no provision in this act shall be construed to require Houston County or the Houston County Commission to provide funding, in-kind service or other aid to the Houston County Work Release and Pre-Trial Commission for the purpose of effectuating the purposes of this act.

SECTION 16. The procedures prescribed in this act shall be cumulative and in addition to all other bail and release procedures provided by law.

SECTION 17. The provisions of this act are severable. If any part of this act is declared invalid or unconstitutional, that declaration shall not affect the part which remains.

SECTION 18. All laws or parts of laws which conflict with this act are repealed.

SECTION 19. This act shall become effective immediately upon its passage and approval by the Governor or upon its otherwise becoming law.

Approved May 19, 1993

Time: 5:40 P.M.

Act No. 93-694

H. 921 – Reps. Carothers, Beasley

AN ACT

Relating to Houston County, requiring the mailing address of the grantee of deeds to real property to be included on all deeds prior to recording them in the office of the judge of probate.

Be It Enacted by the Legislature of Alabama:

Section 1. The Judge of Probate of Houston County shall not record any instrument conveying the title to real property unless the current name and address of the grantee of the property is included in the instrument.

Section 2. This act shall become effective on October 1, 1993, after its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved May 19, 1993

Time: 5:41 P.M.

Act No. 93-695

H. 922 – Reps. Carothers, Beasley

AN ACT

Relating to Houston County; providing for a county salary supplement to be paid monthly to each court reporter of the Twentieth Judicial Circuit.

Be It Enacted by the Legislature of Alabama:

Section 1. Each court reporter of the Twentieth Judicial Circuit shall be entitled to receive an additional annual county supplement in the amount of two thousand dollars (\$2,000). The compensation shall be in addition to any compensation or allowances currently payable to the court reporters. The total compensation paid by Houston County shall not exceed seven thousand dollars (\$7,000).

Section 2. This act shall become effective October 1, 1993, after its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved May 19, 1993

Time: 5:42 P.M.

Act No. 93-696

H. 923 – Reps. Carothers, Beasley

AN ACT

Relating to Houston County; amending Section 4 of Act No. 84-578, H. 734, 1984 Regular Session, which establishes a county civil service system, to alter the appointing authority of the members of the board.

Be It Enacted by the Legislature of Alabama:

Section 1. Section 4 of Act No. 84-578, H. 734, 1984 Regular Session, relating to the Houston County Civil Service System, is amended to read as follows:

“Section 4. **BOARD MEMBERS.** The personnel program established by this act shall be administered by the board. The members of the five-member personnel appeals board, created

pursuant to Act No. 2262, S. 1234, Regular Session 1971 (Acts 1971, p. 3643) and continued under Act No. 1049, S. 886, 1973 Regular Session, (Acts 1973, p. 1663) shall be the first members of the personnel board created by this act and such members shall continue to hold office on the personnel board herein created until such time as their respective terms would have expired on the personnel appeals board according to the terms of Act No. 2262. Upon the expiration of the terms of each member, a successor shall be appointed by the original appointing authority for terms of six years each; and one member each shall hereafter continue to be appointed by the following: the Houston County Commission, the Sheriff of Houston County, the probate judge of the county, the Revenue Commissioner of Houston County, and by the county employees who will be subject to the provisions of this act.

"No person shall be appointed to the personnel board unless he or she is of recognized good character and ability, and is an actual resident in and qualified elector of the county. No person shall be eligible to appointment or shall continue to be a member of a board created under this act who holds an elective office under the state, county, or any city therein, or who is a candidate for elective office. Vacancies on the board shall be filled for the unexpired terms in the same manner as original appointments are made. The board shall elect a chairman from among its members, who shall preside at its meetings. Three members shall constitute a quorum for the transaction of any business which may properly come before the board. Each person so appointed shall, within fifteen days after appointment, qualify by making oath that he or she will faithfully execute the duties of office to the best of his or her ability and knowledge which oath shall be recorded as provided by law. The board shall adopt reasonable rules regulating the procedure of the board. Notice of all meetings of the board shall be given to each member by the clerk of the board."

Section 2. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved May 19, 1993

Time: 5:43 P.M.

Act No. 93-697

H. 976 – Rep. Layson

AN ACT

Relating to Tuscaloosa County; amending Act No. 56, H. 285, 1953 Regular Session, as amended, to provide further for the county sales and use taxes.

Be It Enacted by the Legislature of Alabama:

Section 1. Sections 1, 3, 4, 9, and 11 of Act No. 56, H. 285, 1953 Regular Session, which levy a sales and use tax in Tuscaloosa County, are amended to read as follows:

"Section 1. Definitions. The following words and phrases shall have the following meanings:

"(1) 'The state' means the State of Alabama.

"(2) 'The county' means Tuscaloosa County in the state.

"(3) 'The city' means the City of Tuscaloosa in the state.

"(4) 'The county board of education' means the board of education of Tuscaloosa County, Alabama.

"(5) 'The hospital authority' means the DCH Regional Health Care Authority.

"(6) 'The tax board' means the Tuscaloosa County Special Tax Board created in Section 9 of this act.

"(7) 'State sales tax statutes' means the provisions of Article 1, Chapter 23, Title 40, Code of Alabama 1975.

"(8) 'State use tax statutes' means the provisions of Article 2, Chapter 23, Title 40, Code of Alabama 1975.

"(9) 'Quarterly period' means each period of three calendar months commencing on each January 1, April 1, July 1, and October 1.

"(10) Pronouns include all genders.

"(11) Those words and phrases used in Section 3 of this act that are defined in the state sales tax statutes shall have the meanings respectively given them in the state sales tax statutes. Those words and phrases used in Section 4 of this act that are defined in the state use tax statutes shall have the meanings respectively given them in the state use tax statutes.

Section 3. Levy of Sales Tax. There is hereby levied in the county, in addition to all other taxes of every kind now imposed by law, and shall be collected as herein provided, a privilege or license tax against the person on account of the business activities and in the amount to be determined by the application of rates against gross sales, or gross receipts, as the case may be, as follows:

"(a) Upon every person, firm, or corporation (including the University of Alabama, and all other institutions of higher learning in the county, whether such institutions be denominational, state, county, or municipal institutions, and any association or other agency or instrumentality of such institutions) engaged, or

continuing within the county, in the business of selling at retail any tangible personal property whatsoever, including merchandise and commodities of every kind and character (not including, however, bonds or other evidences of debts or stocks), an amount equal to two percent of the gross proceeds of sales of the business, except where a different amount is expressly provided herein. Any person engaging or continuing in business as a retailer and wholesaler or jobber shall pay the tax required on the gross proceeds of retail sales of such business at the rates specified, when his books are kept to show separately the gross proceeds of sales of each business, and when the books are not so kept, shall pay the tax as a retailer on the gross sales of the entire business.

“(b) Upon every person, firm or corporation engaged, or continuing within the county, in the business of conducting, or operating, places of amusement or entertainment, billiard and poolrooms, bowling alleys, amusement devices, musical devices, theaters, opera houses, moving picture shows, vaudeville, amusement parks, athletic contests, including wrestling matches, prizefights, boxing and wrestling exhibitions, football, basketball, and baseball games (including athletic contests conducted by or under the auspices of any educational institution, or any athletic association thereof, or other association whether the institution or association is a denominational, state, county, or municipal institution, or association, or a state, county, or city school or other institution, association, or school), skating rinks, racetracks, golf courses, or any other place at which any exhibition, display, amusement, or entertainment is offered to the public or place or places where an admission fee is charged, including public bathing places, public dance halls of every kind and description within the county, an amount equal to two percent of the gross receipts of any such business.

“(c) Upon every person, firm, or corporation engaged or continuing within the county in the business of selling at retail any automotive vehicle or truck trailer or semitrailer, an amount equal to one-half of one percent of the gross proceeds of the sale of the automotive vehicle or truck trailer or semitrailer. Where any used automotive vehicle or truck trailer or semitrailer is taken in trade, or in a series of trades, as a credit or part payment on the sale of a new or used vehicle, the tax levied herein shall be paid on the net difference, that is, the price of the new or used vehicle sold less the credit for the used vehicle taken in trade.

“(d) Upon every person, firm, or corporation engaged or continuing within the county in the business of selling at retail machines used in mining, quarrying, compounding, processing, and manufacturing of tangible personal property an amount equal to three-quarters of one percent of the gross proceeds of the sale of

such machines. The term 'machines', as herein used, shall include machinery which is used for mining, quarrying, compounding, processing, or manufacturing tangible personal property, and the parts of such machines, attachments, and replacements therefor, which are made or manufactured for use on or in the operation of such machines and which are necessary to the operation of such machines and are customarily so used.

"Each exemption provided for in the state sales tax statutes, shall, during the period of time when such exemption shall be effective in the statutes, be applicable to the tax levied in this section. In the event of the repeal of the state sales tax statutes, the exemptions effective therein immediately prior to any repeal shall thereafter be applicable to the tax levied in this section. In addition thereto, hereby exempted from the tax levied in this section the gross receipts or gross proceeds of any business engaged in by any provision herein to the contrary, all provisions and procedures with respect to the application for and issuance of licenses, the making of returns or reports, the contents of returns or reports, collection and payment of taxes, keeping of records, reporting and paying taxes with respect to sales on credit, determination of the amount of the tax due, penalties, assessments, notices, and examinations of taxpayers and their books provided for in the state sales tax statutes with respect to the tax levied in those statutes shall be applicable to the tax levied in this section, excepting however, the procedure for appeals from assessments, and such appeals shall be made as hereinafter set forth. Any procedure or provisions involving the State Department of Revenue which is incorporated herein by reference to the state sales tax statutes shall be deemed to apply, with respect to the tax levied in this section, to the tax board. Every person, firm, or corporation engaged in any business upon which the tax levied in this section is imposed shall add the tax herein levied to the sales and admission price with respect to which the said tax is levied and shall collect the same from the purchaser.

"(e) The sale of school lunches sold by all public and private schools in Tuscaloosa County, Alabama, is expressly exempted.

"Section 4. Levy of Use Tax.

"(a) An excise tax is hereby imposed on the storage, use, or other consumption in the county of tangible personal property purchased at retail on or after the effective date of this amendatory act, for storage, use or other consumption in the county at the rate of two percent of the sale price of such property, regardless of whether the retailer who made the sale is or is not engaged in business in the county, except as provided in subsections (b) and (c) of this section.

“(b) An excise tax is hereby imposed on the storage, use, or other consumption in the county of any automotive vehicle or truck trailer, and semitrailer purchased at retail, on or after the effective date of this amendatory act, for storage, use, or other consumption in the county at the rate of one-half of one percent of the sales price of such automotive vehicle, truck trailer, or semitrailer.

“(c) An excise tax is hereby imposed on the storage, use, or other consumption within the county of any machines used in mining, quarrying, compounding, processing, and manufacturing of tangible personal property, purchased at retail on or after the effective date of this act, at the rate of three-quarters of one percent of the sales price of any such machine. The term ‘machine’, as herein used, shall include machinery which is used for mining, quarrying, compounding, or processing, or manufacturing tangible personal property, and parts of such machines, attachments, and replacements therefor, which are made or manufactured for use on or in the operation of such machines and which are necessary to the operation of such machines and are customarily so used.

“Every person storing, using, or otherwise consuming in the county, tangible personal property purchased at retail shall be liable for the tax imposed by this section, and the liability shall not be extinguished until the tax has been paid; provided, however, that a receipt from a retailer maintaining a place of business in the county, showing that the property in question was purchased at retail from such retailer and the tax levied in Section 3 hereof has been paid with respect to the purchase at retail of such property shall be sufficient to relieve the purchaser from further liability for a tax under this section with respect to the use, storage, or consumption of such property. Each exemption provided for in the state use tax statutes shall, during the period of time when such exemption shall be effective in the statutes, be applicable to the tax levied in this section. In the event of the repeal of the state use tax statutes, the exemptions effective therein immediately prior to any such repeal shall thereafter be applicable to the tax levied in this section. All provisions and procedures with respect to the filing of returns, collections, and payment of taxes, keeping of records, making of reports, determination of the amount of the tax due, penalties, assessments, notices, examinations of tax payers and their books provided in the state use tax statutes, with respect to the tax levied in those statutes, shall be applicable to the tax levied in this section excepting, however, the procedure for appeals from assessments, and such appeals shall be made as hereinafter set forth. Any procedure or provisions involving the State Department of Revenue which is incorporated herein by reference to the state use tax statutes shall be deemed to apply, with respect to the tax levied in this section to the tax board.

"Section 9. The Tax Board. There is hereby created a board, which shall be designated the "Tuscaloosa County Special Tax Board," and which shall have the duty of administering this act, as hereinafter provided.

"(a) Members. The tax board shall consist of six members, one of whom shall be elected by the governing body of each of the following: the county, the city, the county board of education, the city board of education, the City of Northport, and the hospital board. Any member of the tax board may be (but need not be) a member of the governing body that elected him and may be (but need not be) an employee of any of the following: the county, the city, the county board of education, the city board of education, the City of Northport, and the hospital board. Members shall serve four year terms. Each member of the tax board shall be elected for each subsequent term not earlier than 30 days prior to the commencement of such subsequent term. The members of the tax board shall serve without compensation but shall be reimbursed for actual expenses incurred in and about the performance of their duties as members of the tax board. Members of the tax board shall hold office until their successors are elected and qualified. If any member of the tax board dies or resigns or becomes incapable of acting as such member or ceases to reside in the county, his place on the board shall be deemed vacant and the governing body which elected him shall, as soon as may be practicable thereafter, elect a successor to serve for the unexpired period of his term. Any member may succeed himself in office if again elected.

"(b) Organization. As promptly as may be practicable after their election for the initial term herein provided for, the members of the tax board shall hold an organization meeting and shall elect from their number a chairman and a secretary. In the event all members of the tax board shall not have been elected within 40 days after the enactment of this act, then those members of the tax board who shall have then been elected shall as promptly as may be practicable thereafter hold such organization meeting and elect said officers.

"(c) Powers. The tax board shall have the following powers: (1) the power to administer this act including the collection of the taxes herein levied, the payment of the expenses incurred in the administration of this act and the collection of said taxes, the distribution of the proceeds remaining after payment of such expenses in accordance with the provisions of Section 11 hereof, and the management of all matters incidental to the administration of this act; (2) the power to fix times for meetings of the tax board and to prescribe the proceedings to be followed at such meetings; (3) to employ, and to fix and pay the compensation of, agents and employ-

ees, including a manager charged with actively supervising the administration of this act, and such clerks, stenographers, attorneys, and other employees as the tax board may deem necessary for the administration of this act, subject to the approval of the governing bodies of the county and the city, all of whom shall serve at the pleasure of the tax board and none of whom shall be subject to the provisions of any civil service law now in effect; (4) the power to exercise, with respect to the tax levied in Section 3 of this act, all powers and functions as to collection of taxes, giving notices, making assessments, enforcing and waiving penalties, issuing executions, summoning and examining taxpayers and other witnesses, examining of books and papers, and making of demands that are conferred on the State Department of Revenue by the state sales tax statutes with respect to the tax levied therein; (5) the power to exercise, with respect to the tax levied in Section 4 of this act, all powers and functions as to collection of taxes, giving notices, making assessments and jeopardy determinations and redeterminations, enforcing and waiving penalties, issuing executions, summoning and examining taxpayers and other witnesses, examining books and papers, and making of demands that are conferred on the State Department of Revenue by the state use tax statutes with respect to the tax levied therein; (6) the power to file and enforce the lien provided for herein as security for each of the taxes herein levied; (7) the power to bring and prosecute suits, to conduct litigation and to take any other legal action necessary to enforce the provisions of this act; (8) the power to prescribe forms and fix regulations not in conflict with provisions of this act; (9) the power to designate from time to time a depository or depositories for tax moneys collected hereunder, and to make agreements with such depository or depositories for the custodianship and withdrawal of any such moneys; (10) the power to pay premiums on fidelity bonds, in such amounts as the tax board may deem expedient, covering any of its employees whose duties include the handling of moneys; and (11) the power to exercise all powers incidental to, and reasonably necessary to the accomplishment of, the powers hereinabove set forth in clauses (1) to (10) of this subsection.

"Section 11. Disposition of Revenues. Any and all expenses, including, but without limitation to, salaries, office rent, and other expenses that may be necessary to provide for the collection and distribution of the taxes herein levied as may be authorized or approved by the tax board, shall be deducted by the tax board and paid out of the proceeds from collections before any distribution of proceeds. After deduction of expenses, the tax board shall distribute the remaining proceeds from the taxes as follows:

"(a) Thirty-two and one-half percent of the proceeds remaining shall be paid to the City of Tuscaloosa for general municipal purposes.

“(b) Five percent of the proceeds remaining shall be paid to the City of Northport for general municipal purposes.

“(c) Twelve and one-half percent of the proceeds remaining shall be paid to Tuscaloosa County for general county purposes.

“(d) Ten percent of the proceeds remaining shall be paid to the hospital authority, which shall use the proceeds solely to defray all or a part of the costs of any hospital operated by the hospital authority for hospital services furnished to charity patients who are residents of the county, including any municipality therein.

“(e) Twenty percent of the proceeds remaining shall be paid to the county board of education, which shall use the proceeds solely for public school purposes in the county, including, but without limitation to, payment of any warrants, notes, and other obligations of the county board of education which have heretofore or may hereafter be issued for any public school purposes, together with the interest thereon and the necessary expenses in connection with the issuance thereof, acquiring, providing, or constructing schoolhouses and related buildings necessary or convenient for public school purposes, and equipping, furnishing, maintaining, repairing, or replacing any such buildings and acquiring sites therefor.

“(f) Twenty percent of the proceeds remaining shall be paid to the city, which shall use the proceeds solely for public school purposes in the city, including, but without limitation to, payment of any bonds, warrants, notes, and other obligations of the city which have heretofore or may hereafter be issued for any public school purposes, together with the interest thereon and the necessary expenses in connection with the issuance thereof, acquiring, providing, or constructing schoolhouses and related buildings necessary or convenient for public school purposes, and equipping, furnishing, maintaining, repairing, or replacing any such building and acquiring sites therefor.

“The proceeds for which distribution is provided in subsections (a), (b), (c), (d), (e), and (f) of this section shall be paid over to the beneficiaries thereof, respectively on or before the tenth day of the calendar month next succeeding the calendar month in which the proceeds have been received by the tax board. The tax board is hereby authorized to retain on hand at all times as a revolving or contingent fund for payment of its expenses, as provided for in Section 9 (c) of this act, such amount of tax proceeds as it deems expedient; provided, that as disbursements are made from the revolving or contingent fund the tax board shall have the power, immediately or at such times as it deems convenient, to restore the moneys so disbursed out of the proceeds from the taxes herein

levied; and provided further, that the revolving or contingent fund shall not at any time exceed 10 percent of the collections made under this act during the then preceding calendar month."

Section 5. This act shall become effective on the first day of the first calendar month next following its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved May 19, 1993

Time: 5:44 P.M.

Act No. 93-698

H. 995 – Rep. Holley

AN ACT

Relating to Coffee County; authorizing the county commission to levy an additional ad valorem tax and providing for a referendum.

Be It Enacted by the Legislature of Alabama:

Section 1. Pursuant to subsection (f) of Amendment No. 373 to the Constitution of Alabama of 1901, the Coffee County Commission may levy, in addition to any other tax, an ad valorem tax not to exceed the amount of 3.5 mills on each dollar of taxable property in the county. The revenue from the additional tax shall be paid to the county general fund to be used for the construction of a new courthouse in Enterprise, Alabama.

Section 2. The authority of the county commission to levy the ad valorem tax authorized by this act shall expire at the beginning of the tax year following the retirement of any bonds issued to finance the construction for which the revenue from the tax is pledged.

Section 3. The increase in the rate of the tax as provided by this act is subject to the approval of a majority of the qualified electors of the county who vote on the proposed increase at the next general, primary, constitutional, or special election held for that purpose.

Section 4. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved May 19, 1993

Time: 5:45 P.M.

Act No. 93-699

H. 1005 – Rep. Flowers

AN ACT

Relating to Pike County; to provide for the election of the Pike County Board of Education from six single-member districts; to define the boundaries of the districts; to include within those districts all of Pike County; to authorize the board to change the boundaries of the election districts; to establish procedures for making changes; to establish staggered terms of office for board members; and to repeal Act 81-747, H. 1120, 1981 Regular Session (1981 Acts, p. 1274), and Act 90-123, H. 612, 1990 Regular Session (1990 Acts, p. 142).

Be It Enacted by the Legislature of Alabama:

Section 1. The electorate for the Pike County Board of Education shall include all qualified voters in Pike county, including those residing within the City of Troy.

Section 2. The Pike County Board of Education shall consist of six members, each elected from a separate single-member district.

Section 3. Members representing districts 5 and 6 shall be elected in 1994. Members representing districts 1 and 2 shall be elected in 1996. Members representing districts 3 and 4 shall be elected in 1998. All members shall be elected for terms of six years in accordance with Sections 16-8-2 and 17-2-5, Code of Alabama 1975.

Section 4. Each board member shall be a resident of the single-member district from which the member is elected. The residency shall have been established at least one year before the general election at which the member is elected.

Section 5. The six districts shall be the same as those districts used in the 1992 elections for the Pike County Board of Education and the Pike County Commission.

Section 6. Following the release of any federal decennial census, the board may, by majority vote, change the boundaries of the six single-member districts in order to comply with the one-person, one-vote requirement of the federal constitution. Any revised district arrangement to be used, in whole or in part, shall be approved by the board not later than 180 days prior to the election in which it will first be used.

Section 7. No change to the boundaries of existing districts shall be adopted by the board unless the board first shall have advertised in a newspaper of general circulation in Pike County for at least two consecutive weeks the time and place of the meeting at which the change will be voted upon. The advertisements shall include either (1) a map of the county indicating the proposed district boundaries, or (2) notification that a map indicating the proposed district

boundaries is available for inspection at a specific public location, where the map shall be displayed for at least two consecutive weeks preceding the meeting of the board at which the resolution shall be considered, or both.

Section 8. Any resolution changing district boundaries shall describe the revised district boundaries by reference to standard census units, or county voting precincts, or both.

Section 9. Upon passage of any resolution effecting changes in district boundaries pursuant to this act, the board shall file with the Pike County Judge of Probate a certified copy of the resolution, together with a map of the county showing the revised district boundaries.

Section 10. Act 81-747, H. 1120, 1981 Regular Session (1981 Acts, p. 1274), which excluded from the electorate for the board those voters who resided within the City of Troy, and Act 90-123, H. 612, 1990 Regular Session (1990 Acts, p. 142), which adopted the Pike County Commission's existing single-member district plan for use in the 1990 elections, are repealed.

Section 11. The provisions of this act are severable. If any part of this act is declared invalid or unconstitutional, that declaration shall not affect the part which remains.

Section 12. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved May 19, 1993

Time: 5:46 P.M.

Act No. 93-700

H. 1006 – Rep. Walker

AN ACT

Relating to Montgomery County; to authorize the Sheriff to offer abandoned and stolen property for sale at public auction to the highest cash bidder; providing for deposit of such funds in a designated fund; and to provide for the use of such fund.

Be It Enacted by the Legislature of Alabama:

Section 1. The Sheriff of Montgomery County shall sell, at public auction, any abandoned and stolen personal property recovered by the Sheriff's Department which has remained unclaimed by the rightful owner for a period of six consecutive months.

Section 2. The Sheriff of Montgomery County shall keep and maintain a permanent record of all abandoned and stolen personal property recovered by the Sheriff's Department which states the description of the property, the date of recovery, the serial or other identifying number, and the place of recovery of the property. The records shall be open to public inspection at reasonable times. All abandoned or stolen property recovered by the Sheriff's Department shall be stored in a suitable place to protect the property from deterioration. After reasonable attempts have been made to locate and identify the owner, perishable property may be sold at once without notice. The proceeds shall be held for a period of six months for the account of the owner, and, if unclaimed after that time, shall be paid to the Sheriffs Fund for use by the Sheriff's Department after deducting and paying all expenses incurred in the recovery, storage, maintenance, and sale of the property.

Section 3. At least every six months, the Sheriff of Montgomery County, shall sell at public auction to the highest bidder for cash all abandoned or stolen personal property which has been recovered by the Sheriff's Department, which has remained unclaimed by the rightful owner after a period of six months. The sales shall be made after notice has been given by publication in a newspaper of general circulation in Montgomery County once a week for two successive weeks and by posting notice in a conspicuous place at the Montgomery County Courthouse for a period of at least twenty days prior to the sale. The notice shall contain the place, date, and time of each auction and a description of each item of personal property to be sold at auction. If publication of the notice is made by publication in the newspaper, the first notice shall run at least twenty days prior to the auction.

Section 4. The owner of any abandoned or stolen personal property recovered by the Sheriff's Department may redeem the property at any time prior to its sale by paying any reasonable expenses incurred in the recovery of the property, its maintenance and storage, and a pro rata share of the costs of publication of notice of the sale of the property.

Section 5. Whenever any property is sold at public auction, a notation in the storage record book shall be made of the sale and of the amount received for the property. All sales shall be paid in cash. The person conducting the sale shall have the right to reject any and all bids if the bid amount is unreasonably low and may continue the sale, from time to time, if no bidders are present.

Section 6. The proceeds from any auction remaining after deducting and paying all expenses incurred in the recovery, storage, maintenance, and sale of property sold at the auction, shall be paid into the Sheriffs Fund for the office of the Sheriff of Montgomery County.

Section 7. The use of such funds from the Sheriff's Fund shall in no way diminish or take the place of any other source of income established for the Sheriff in the operation of his department.

Section 8. The State Examiners of Public Accounts is hereby authorized to audit said monies annually and submit a copy of said audit to the Sheriff within 30 days of its completion.

Section 9. The provisions of this act are severable. If any part of this act is declared invalid or unconstitutional, that declaration shall not affect the part which remains.

Section 10. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved May 19, 1993

Time: 5:47 P.M.

Act No. 93-701

H. 1007 – Rep. Walker

AN ACT

Relating to Montgomery County; fixing the fee for issuance of a pistol permit by the Sheriff or his or her designated agent; providing for the distribution and deposit of such fees; providing for a fund to be entitled as the "Sheriff's Fund" and providing for the use of such fund.

Be It Enacted by the Legislature of Alabama:

Section 1. In Montgomery County the fee for issuance of a pistol permit to carry a pistol in a vehicle or concealed on or about the person as provided in Title 13A-11-75, Code of Alabama 1975, shall be \$20, which shall be collected by the Sheriff or his or her appointed agent.

Section 2. (a) Any and all monies collected under Section 1 of this act shall be deposited in the County Treasury.

(b) The treasurer or other custodian of county funds shall pay \$14 of the fee into a fund known as the "Sheriff's Fund" hereinafter established in Section 3 of this act.

(c) The treasurer or other custodian of county funds shall pay \$4 of the fee to be credited to the county portion of contribution for all county employees under any retirement plan in effect in Montgomery County.

(d) The treasurer or other custodian of county funds shall pay \$2 of the fee into the General Fund of Montgomery County.

Section 3. (a) A fund which shall be known as the "Sheriff's Fund" is hereby established, to be expended by the Sheriff or his or her appointed agent, in law enforcement work as provided in subsection (b) of this section.

(b) The Sheriff or his or her appointed agent is hereby authorized and empowered to make requisition to the county treasurer or other custodian of county funds on the "Sheriff's Fund" for the payment of any and all expenses for the betterment of law enforcement in the public's interest and in the proper discharge and the conduct of the duties of the Sheriff's Office in Montgomery. The county treasurer or other custodian of county funds shall immediately pay out such funds upon requisition by the Sheriff or his or her appointed agent.

(c) The establishment of the "Sheriff's Fund" as provided in this act, and the use of such funds, shall in no way diminish or take the place of any other imbursement or source of income established for the Sheriff in the operation of his or her office.

Section 4. The provisions of this act are severable. If any part of this act is declared invalid or unconstitutional, that declaration shall not affect the part which remains.

Section 6. All laws or parts of laws which conflict with this act are repealed.

Section 6. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved May 19, 1993

Time: 5:48 P.M.

Act No. 93-702

H. 1003 – Rep. Venable

AN ACT

Relating to Elmore County; to create a license-issuing division within the judge of probate's office for the issuance of certain licenses; to provide for the selection of personnel for the license-issuing division; to provide certain duties for the division; to provide for an optional procedure for the renewal of motor vehicle licenses in the county by mail; to authorize certain additional fees and costs pursuant to the system of renewal of motor vehicle licenses by mail; to prescribe more

convenient and efficient procedures for the assessing and collecting of certain taxes; and to transfer certain duties and responsibilities now performed by the revenue commissioner to the judge of probate.

Be It Enacted by the Legislature of Alabama:

Section 1. There is created within the Judge of Probate's Office of Elmore County a license division which shall issue all licenses issued through the judge of probate's office, except marriage licenses. The county commission shall furnish suitable quarters and provide the necessary forms, books, stationery, records, equipment and supplies, except for stationery forms and supplies that are furnished pursuant to law by the State Department of Finance or the State Comptroller. The county commission shall also provide clerks and other assistants for the judge of probate as shall be necessary from time to time for the proper and efficient performance of the duties of his or her office. The number and compensation of the clerks and other assistants shall be subject to the approval of the county commission. The compensation of the clerks and assistants shall be paid out of the general fund of the county in the same manner as other county employees are paid.

Section 2. The judge of probate shall perform all duties relating to the assessment and collection of ad valorem taxes, registration, and issuance of decals related to manufactured homes as required by Act No. 91-694, except those subject to ad valorem taxation specifically mentioned in Section 40-11-1(b)(15), and casual sales and use taxes on motor vehicles and manufactured homes in the county, which have been performed by the revenue commissioner. The revenue commissioner of Elmore County is relieved of all duties and responsibilities relating to the assessment and collection of taxes on motor vehicles and manufactured homes. The judge of probate shall receive the commissions and fees now allowed the revenue commissioner for performing these functions and these fees and commissions shall be remitted to the county general fund. Reporting and remitting of the collections of these fees shall be made by the judge of probate or as otherwise required by statute.

Section 3. The judge of probate shall keep at all times an accurate record of all licenses received by him or her from the State Comptroller and of the disposition made of them, of all monies received, and of the licenses issued by him or her. The judge of probate shall report to the State Comptroller at the same time and in the same manner that the judges of probate are required to do under the general law. All unissued licenses and stubs or duplicates or carbon copies of licenses issued shall be accounted for in the same manner that judges of probate are required to account for by law.

Section 4. Except as provided in this act, the judge of probate may charge and collect the same fees that are provided for by

law. All fees shall be the property of the county and shall be paid to the general fund of the county. Refunds for licenses issued by mistake or fact of law shall be made under the conditions and in the manner prescribed by law.

Section 5. To prevent motor vehicles from escaping taxation and to provide for a more efficient procedure for the assessment and collection of taxes due on motor vehicles, no licenses shall be issued to operate motor vehicles on the public highways of this state, nor shall any transfer be made by the judge of probate until the ad valorem tax on the vehicles have been paid to the county for the preceding year as evidenced by receipt from the judge of probate. Every person, firm, or corporation driving or owning a motor vehicle who desires to operate a motor vehicle on the public highways of Alabama shall first return the motor vehicle for ad valorem taxation purposes to the judge of probate who shall issue a certificate of assessment on a form prescribed by the state Department of Revenue, shall collect the taxes shown on the certificate, and shall make a duplicate of the tax receipt and keep same on file in his or her office. The license tag shall be evidence of the payment of the license and ad valorem tax due as provided under this act.

Section 6. Before any vehicle can be assessed, the judge of probate shall be furnished the tag number presently on the vehicle unless the vehicle is new, in which case the judge of probate shall be furnished a bona fide bill of sale from the dealer showing when the vehicle was bought new. In the case of a used car brought into the state from another state which provided that upon sale or transfer of the motor vehicle the tags are either surrendered to an appropriate authority or subsequently reissued by the seller, the judge of probate shall be furnished a bona fide certificate of title properly assigned which shows when the car was sold to an individual, firm, corporation, or association, living or operating in this state. If the tag number, bill of sale or certificate of title is not furnished, the vehicle shall be presumed to have been in the state the entire year for which taxes are being assessed. Those motor vehicles brought into the state during any tax year and new motor vehicles for which licenses have never been issued that have been sold from the stock of a dealer during any tax year shall be subject to taxation as if they had been held or owned in the state on the first day of October.

Section 7. The judge of probate may mail an application for renewal of licenses to persons to whom licenses have been previously issued. The renewal forms shall be mailed prior to the expiration date of the license. The renewal forms may be in post card form and shall contain sufficient information to adequately identify and process the renewal forms. There is established a fee to be entitled a "mail order

fee" which shall be set from time to time by the county commission in an amount not to exceed five dollars (\$5.00) per registration to pay the cost of the mailing procedure. This mail order fee shall only be collected from those persons who request their license to be mailed and the fee shall be collected by the judge of probate at the time of issuance and paid over to the general fund of the county as are other fees and commissions. The signature of the licensee on the renewal form and the proper remittance plus the mail order fee if mail service is requested shall constitute sufficient authority for the judge of probate to issue the license and return to the licensee by mail.

Section 8. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved May 19, 1993

Time: 5:49 P.M.

Act No. 93-703

H. 933 – Rep. Zoghby

AN ACT

Relating to Mobile County; providing further for the compensation of the circuit clerk of the county; and repealing Act No. 79-344, H. 690 of the 1979 Regular Session (Acts 1979, p. 558) and Act No. 84-481 of the 1984 Regular Session (Acts 1984, p. 1101), and any law which provides for an expense allowance or county supplement for the Circuit Clerk of Mobile County, for that purpose, only to the extent there is a conflict with this act.

Be It Enacted by the Legislature of Alabama:

Section 1. In Mobile County in addition to the salary paid to the Circuit Clerk of the Thirteenth Judicial Circuit by the state, there shall also be paid to the circuit clerk a supplemental salary in the sum equal to twenty-five percent of the salary paid to the circuit clerk by the State of Alabama. The county supplemental salary shall be paid out of the general fund of the county in equal installments at the same time and in the same manner that the salary of other county employees are paid. The local county supplemental salary shall be in lieu of any other supplement or expense allowance currently paid by the county to the circuit clerk.

Section 2. Act No. 79-344, H. 690 of the 1979 Regular Session (Acts 1979, p. 558) and Act No. 84-481 of the 1984 Regular Session (Acts 1984, p. 1101), and any law which provides for an expense allowance or county supplement for the Circuit Clerk of Mobile County are specifically repealed, only to the extent there is a conflict with this act.

Section 3. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved May 19, 1993

Time: 5:50 P.M.

Act No. 93-704

H. 681 – Rep. Knight (J)

AN ACT

Relating to Class 3 municipalities; to further provide for the number of members of municipal boards, committees, or like bodies.

Be It Enacted by the Legislature of Alabama:

Section 1. In any Class 3 municipality, any law to the contrary notwithstanding, the number of members who shall serve on any existing or future municipal board, committee, or like body, shall be the same as the number of members on the municipal governing body unless the municipal governing body by a two-thirds vote of the total membership of the municipal governing body shall provide for a greater or lesser number of members.

Section 2. The provisions of this act are severable. If any part of this act is declared invalid or unconstitutional, that declaration shall not affect the part which remains.

Section 3. All laws or parts of laws which conflict with this act are repealed.

Section 4. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved May 19, 1993

Time: 5:51 P.M.

Act No. 93-705

H. 848 – Reps. Drake, Bowling

AN ACT

Relating to Cullman County; authorizing the county commission to levy an additional one-cent sales and use tax; providing for the collection, distribution, and use of the proceeds of the tax to retire the current indebtedness of the county; and prescribing penalties and fixing punishment for violation of this act.

Be It Enacted by the Legislature of Alabama:

Section 1. This act shall only apply to Cullman County.

Section 2. As used in this act, state sales and use tax means the tax imposed by the state sales and use tax statutes, including, but not limited to, Sections 40-23-1, 40-23-2, 40-23-3, 40-23-4, 40-23-60, 40-23-61, 40-23-62, and 40-23-63 of the Code of Alabama 1975.

Section 3. The County Commission of Cullman County may levy, in addition to all other taxes, including, but not limited to, municipal gross receipts license taxes, a one-cent privilege license tax against gross sales or gross receipts. Notwithstanding the foregoing, the additional privilege license tax imposed by this Act shall not apply to any person, firm or corporation engaged in the business of selling at retail machines used in mining, quarrying, compounding, processing, and manufacturing of tangible personal property, and any parts of such machines or any automotive vehicle, truck, truck trailer, semi-trailer, house trailer, or farm machinery.

The gross receipts of any business and the gross proceeds of all sales which are presently exempt under the state sales and use tax statutes are exempt from the tax authorized by this act.

Section 4. The tax levied by the county commission pursuant to this act shall be collected by the State Department of Revenue or otherwise as provided by resolution of the Cullman County Commission at the same time and in the same manner as state sales and use taxes are collected. On or prior to the date the tax is due, each person subject to the tax shall file with the department a report in the form prescribed by the department. The report shall set forth, with respect to all sales and business transactions that are required to be used as a measure of the tax levied pursuant to this act, a correct statement of the gross proceeds of all the sales and gross receipts of all business transactions. The report shall also include items of information pertinent to the tax as the department may require. Any person subject to the tax levied pursuant to this act may defer reporting credit sales until after their collection, and in the event the person defers reporting them, the person shall thereafter include in each monthly report all credit collections made during the preceding month, and shall pay the tax due at the time of filing the report. All reports filed with the department under this section shall be available for inspection by the county commission, or its designee.

Section 5. Each person engaging or continuing in a business subject to the tax levied pursuant to this act, shall add to the sales price or admission fee and collect from the purchaser or the person paying the admission fee the amount due by the taxpayer because

of the sale or admission. It shall be unlawful for any person subject to the tax to fail or refuse to add to the sales price or admission fee and to collect from the purchaser or person paying the admission fee the amount required to be added to the sale or admission price. It shall be unlawful for any person subject to the tax levied pursuant to this act to refund or offer to refund all or any part of the amount collected or to absorb or advertise directly or indirectly the absorption or refund of any portion of the tax.

Section 6. The tax levied pursuant to this act shall constitute a debt due Cullman County. The tax, together with any interest and penalties, shall constitute and be secured by a lien upon the property of any person from whom the tax is due or who is required to collect the tax. The department shall collect the tax, enforce this act, and have and exercise all rights and remedies that the state or the department has for collection of the state sales and use tax. The department may employ special counsel as is necessary to enforce collection of the tax levied pursuant to this act and to enforce this act. The department shall pay the special counsel any fees it deems necessary and proper from the proceeds of the tax collected by it for Cullman County.

Section 7. All provisions of the state sales and use tax statutes with respect to the payment, assessment, and collection of the state sales and use tax, making of reports, keeping and preserving records, penalties for failure to pay the tax, promulgating rules and regulations with respect to the state sales and use tax, and the administration and enforcement of the state sales and use tax statutes which are not inconsistent with this act shall apply to the tax levied pursuant to this act. The State Commissioner of Revenue and the department shall have and exercise the same powers, duties, and obligations with respect to the tax levied pursuant to this act that are imposed on the commissioner and department by the state sales and use tax statutes. All provisions of the state sales and use tax statutes that are made applicable by this act to the tax levied pursuant to this act, and to the administration and enforcement of this act, are incorporated by reference and made a part of this act as if fully set forth herein.

Section 8. The department shall charge Cullman County for collecting the tax levied pursuant to this act in an amount or percentage of total collections as may be agreed upon by the commissioner and the Cullman County Commission. The charge shall not exceed five percent of the total amount of the tax collected in the county. The charge may be deducted each month from the gross revenues from the tax before certification of the amount of the proceeds due Cullman County for that month. The Commissioner of Revenue shall pay into the State Treasury all amounts collected under this

act, as the tax is received by the department on or before the first day of each successive month. The commissioner shall certify to the State Comptroller the amount collected and paid into the State Treasury for the benefit of Cullman County during the month immediately preceding the certification. The State Comptroller shall issue a warrant each month payable to the County Treasurer of Cullman County in an amount equal to the certified amount which shall be paid into the county general fund to be used as follows:

- (1) Forty percent to the county general fund.
- (2) Forty percent to the governing body of the City of Cullman.
- (3) Twenty percent to the municipalities in the county, excluding the City of Cullman, on a pro rata basis, based upon the percentage that the population of each municipality bears to the total population of the municipalities in the county, excluding the City of Cullman.

Section 9. This act shall become effective on the first day of the second month following its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved May 19, 1993

Time: 5:52 P.M.

Act No. 93-706

H. 808 – Reps. Penry, McMillan

AN ACT

Relating to Baldwin County; to establish a public corporation known as the “Alabama Gulf Coast Convention and Visitors Bureau”; to define the boundaries of a “Lodging Tax District” within Baldwin County; to provide for the levy of a lodging tax and the collection of the tax within the defined “Lodging Tax District”; and to provide for the distribution of the tax.

Be It Enacted by the Legislature of Alabama:

Section 1. There is created and established in Baldwin County a public corporation, which shall be vested with the powers conferred upon it by this act. The corporation shall be known as the “Alabama Gulf Coast Convention and Visitors Bureau,” or other name as the board of directors of the corporation may choose. The public corporation is hereinafter referred to as “the bureau.”

Section 2. (a) The bureau shall conduct programs, including but not limited to, programs of information and publicity designed to attract conventions and tourists to the area. The bureau shall

conduct programs in Alabama and elsewhere, and expend its funds in the furtherance of the programs in Alabama and elsewhere.

(b) The bureau may enter into contracts with a person, firm, corporation, or association to carry out the purposes set forth in this act. No contract entered into by the bureau shall bind the State of Alabama, a county, or a municipality of the State of Alabama.

(c) The bureau shall have the following powers:

(1) To sue and be sued.

(2) To acquire property, rights, and interest, in property by gift, lease, or purchase.

(3) To have a seal and alter the seal at pleasure.

(4) To appoint officers, agents, employees, and attorneys and fix their compensation.

(5) To make by-laws for the management and regulation of its affairs.

(6) To enter into contracts and execute all instruments necessary or convenient to lease, purchase, and own real or personal property used in furtherance of the purposes for the accomplishment of which the bureau is created.

(7) To accept or receive gifts, bequests, and devises.

(8) To borrow money, execute notes, and other evidence of indebtedness which may be required by the lender, and pledge anticipated revenue or income to secure payment of loans.

(9) To do all things necessary or convenient to carry out the powers expressly given herein.

(d) The taxes which the Legislature imposes shall be payable to the bureau and the bureau shall use and apply the proceeds of the taxes for the purposes set forth in subsection (c).

Section 3. (a) The affairs of the bureau shall be managed by a board of directors, hereinafter called "the board," which shall consist of the following: At least one and no more than four board members representing each incorporated municipality located within the defined "Lodging Tax District" and at least one and no more than four board members from the unincorporated area of the "Lodging Tax District."

(b) The number of board members representing each municipality shall be computed as follows:

(1) One board seat for each one hundred thousand dollars (\$100,000) of annual lodging tax collections, collected pursuant to

this act. The minimum board seats per municipality shall be one and the maximum board seats per municipality shall be four.

(2) The board members representing the incorporated municipalities shall be appointed by the governing body of their respective municipality. The initial board member terms shall be appointed one each for a one, two, three, and four year term. Subsequent appointments shall be for a term of four years.

(3) Appointed board members shall represent the following from within their respective municipality:

a. No more than one board member from each municipality shall be a member of the elected body of the municipality.

b. No more than two board members from each municipality shall be engaged in the lodging business and subject to the taxing provisions of this act.

c. No more than one board member from each municipality shall be engaged in a business, other than a lodging business, whose customers or clients are primarily tourists or visitors.

(4) The number of board members representing the unincorporated area of the defined Lodging Tax District shall be computed as follows:

a. One board seat for each one hundred thousand dollars (\$100,000) of annual lodging tax collections, collected pursuant to this act. The minimum board seats for the unincorporated area shall be one and the maximum board seats for the unincorporated area shall be four.

b. The board members representing the unincorporated area of the defined Lodging Tax District shall be appointed by a majority vote of the Baldwin County Legislative Delegation for a term of four years. The board members shall be engaged in the lodging business within the unincorporated area and subject to the taxing provisions of this act.

c. Board members whose terms have expired shall continue to serve until either replaced or reappointed by the appropriate governing body.

(5) The members of the board shall serve without compensation but they may be reimbursed for actual expenses incurred in the performance of their duties for the bureau.

Section 4. (a) The power of the bureau shall be vested in and exercised by the board of directors pursuant to this act.

(b) The board shall employ agents, employees, officers, consultants, attorneys, and secure services and assistance the board

deems necessary to enable it to conduct and engage in the activities and purposes for which this bureau is created.

(c) The board may delegate to one or more of its members, employees, agents, or officers, the duties it deems proper.

(d) The board shall elect a chair, a vice chair of the board who shall serve as chair in the event of the absence of the chair, a treasurer, and a secretary. One person may serve as treasurer and secretary. The treasurer and secretary may, but need not be, a member of the board.

(e) The board shall provide by resolution for the dates on which the chair, vice chair, treasurer, and secretary shall be elected, which resolution shall also specify the term or period for which each of the offices shall serve.

(f) The treasurer shall act as custodian of all of the funds, from whatever sources derived, received by the officer.

(g) The treasurer of the board shall execute a fidelity bond with a company authorized to write bonds in the State of Alabama being surety thereon, which bond shall be in an amount approved by the board.

(h) Contracts of the bureau shall be executed in the name of the bureau by the chair of the board and attested by the secretary of the board. The board may by resolution provide for a different form for the execution of contracts and for the execution by an officer or agent other than the chair and secretary. In no event shall a contract, irrespective of its form and of the persons executing it, be binding unless the contract was authorized or ratified by the board.

Section 5. There is established a "Lodging Tax District" located in Baldwin County, to include all areas within the following boundaries:

(1) All areas within the corporate limits of the City of Gulf Shores, Alabama.

(2) All unincorporated areas of Baldwin County located south of the Intracoastal Waterway and west of the City of Gulf Shores.

(3) Other areas which choose to be included in this act pursuant to the following provisions:

a. If an incorporated municipality, a resolution adopted by a majority vote of the municipality governing body shall be recorded in the office of the Judge of Probate of Baldwin County, stating the inclusion of the municipality into the Lodging Tax District. The municipality need not be contiguous to the existing Lodging Tax

District. Once the resolution is adopted and recorded, the area within the municipality shall be included in the Lodging Tax District, subject to the provisions of this act, and can only be removed or excluded by subsequent legislative action. A copy of the recorded resolution shall be forwarded to the Alabama Department of Revenue.

b. If an unincorporated area of Baldwin County, a resolution adopted by a majority vote of the Baldwin County Commission shall be recorded in the office of the Judge of Probate of Baldwin County stating the inclusion of the defined area into the Lodging Tax District. The defined area need not be contiguous to the existing Lodging Tax District. Once the resolution is adopted and recorded, the unincorporated area defined shall be subject to the provisions of this act and can only be removed or excluded by subsequent legislative action. A copy of the recorded resolution shall be forwarded to the Alabama Department of Revenue.

Section 6. In addition to all other taxes imposed by law, there is levied a privilege or license tax in the amount prescribed against every person within the defined Lodging Tax District engaging in the business of renting or furnishing a room or rooms, lodging or accommodations, to a transient in a hotel, motel, inn, condominium, house, tourist court, or another place in which rooms, lodgings, or accommodations are regularly furnished to transients for a consideration. The amount of the tax shall be equal to two percent of the charge for the rooms, lodgings, or accommodations, including the charge for use of rental of personal property and services furnished in the room or rooms.

Section 7. (a). There are exempted from the provisions of the tax levied by this act and from the computation of the amount of the tax levied or payable the following: charges for property sold or services furnished which are required to be included in the tax levied by the State Sales Tax Act; charges for the rental of rooms, lodgings, or accommodations to a person for a period of 30 continuous days or more pursuant to the exemption provision of Alabama's Transient Occupancy Tax, Section 40-26-1 of the Code of Alabama 1975. A subsequent amendment or change to the Alabama Transient Occupancy Tax shall also have the effect of similarly changing the exemption provision of this act.

(b) Notwithstanding the aforesaid provisions of this subsection, the tax shall not apply to the rental of living accommodations which are intended primarily for rental to persons as their principal or permanent place of residence.

Section 8. (a) The taxes levied by this act, except as otherwise provided, shall be due and payable to the Department of

Revenue on or before the 20th day of the month next succeeding the month in which the tax accrues. On or before the 20th day of each month after the effective date of the taxes, every person on whom the tax is levied by this act shall render to the Department of Revenue on a form prescribed by the department, a true and correct statement showing the gross proceeds of the business subject to the tax for the then preceding month, together with other information as the department demands and requires. At the time of making the monthly report, the taxpayer shall compute and pay to the department the amount of taxes shown due. A person subject to the tax who conducts business on a credit basis may defer reporting and paying the tax until after the person has received payment of the items, articles, or accommodations furnished. In the event he or she defers reporting and paying the taxes, he or she shall thereafter include in each monthly report all credit collections made during the then preceding month and shall pay the amount of taxes computed thereon at the time of filing the report.

(b) It shall be the duty of every person engaged or continuing in a business subject to the taxes levied by this act to keep and preserve suitable records of the gross proceeds of the business and other books or accounts necessary to determine the amount of tax for which he or she is liable pursuant to this act. The records shall be kept and preserved for a period of two years and shall be open for examination at all times by the Department of Revenue or by a duly authorized agent, deputy, or employee of the department.

(c) A person who fails to pay the tax levied by this act within the time required by this act shall pay in addition to the tax a penalty of ten percent of the amount of tax due, together with interest from the date on which the tax became due and payable at the rate due and payable on the state lodging tax. The penalty and interest shall be assessed and collected as a part of the tax. The Department of Revenue may, if good and sufficient reason be shown, waive or remit the penalty or a portion of the penalty.

Section 9. All provisions of the state lodging tax statutes with respect to payment, assessment, and collection of the state lodging tax, making of reports and keeping and preserving records, interest after due date of tax, or otherwise; the promulgation of rules and regulations with respect to the state lodging tax; and the administration and enforcement of the state lodging tax statutes, which are not inconsistent with the provisions of this act when applied to the tax levied by this act, shall apply to the levied district tax. The Commissioner of Revenue and the Department of Revenue shall have and exercise the same powers, duties, and obligations with respect to the district taxes levied as imposed on the commissioner and the department, respectively, by the state

lodging tax statutes. All provisions of the state lodging tax statutes that are made applicable to this act, to the district taxes levied, and to the administration of this act are incorporated herein by reference and made a part as if fully set forth.

Section 10. None of the provisions of this act shall be applied in a manner to violate the Commerce Clause of the United States Constitution. If a provision of this act is held invalid, the invalidity shall not affect the remaining provisions of this act.

Section 11. The Department of Revenue shall charge and deduct from the proceeds of the tax levied, an amount equal to the cost to the department of making the collections and the charge shall not exceed five percent of the total amount of tax collected. Following that deduction, the department shall pay the remainder of the tax proceeds to the bureau.

Section 12. The provisions of this act are severable. If any part of this act is declared invalid or unconstitutional, that declaration shall not affect the part which remains.

Section 13. All laws or parts of laws which conflict with this act are repealed.

Section 14. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved May 19, 1993

Time: 5:53 P.M.

Act No. 93-707

H. 849 – Reps. Cagle, Parker (T), Poole,
Melton, Layson

AN ACT

Relating to Tuscaloosa County; to amend Act No. 81-739, H. 1088, 1981 Regular Session (Acts 1981, p. 1266), which provides for distribution of bonus payments to employees on a pro rata basis of employment.

Be It Enacted by the Legislature of Alabama:

Section 1. Act No. 81-739, H. 1088, 1981 Regular Session (Acts 1981, p. 1266), is further amended to add the following section.

Section 8. Notwithstanding any other provision of law, bonus payments authorized by Section 2 of this act shall be distributed to any person who was employed in the year for which the bonus was

paid on a pro rata basis for that portion of the year the person was employed.

Section 2. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved May 19, 1993

Time: 5:54 P.M.

Act No. 93-708

H. 951 – Rep. Poole

AN ACT

Relating to Tuscaloosa County; To alter, rearrange and extend the boundary lines and corporate limits of the City of Tuscaloosa, annexing certain territory to the city.

Be It Enacted by the Legislature of Alabama:

Section 1. The boundary lines and corporate limits of the municipality of Tuscaloosa in Tuscaloosa County are hereby altered, rearranged and extended so as to include within the corporate limits of said municipality, in addition to the lands now included, all of the following tracts or territories, to-wit:

Tract 1

Certain territory located in Section 31, Township 21 South, Range 9 West and in Section 36, Township 21 South, Range 10 West, in Tuscaloosa County, Alabama, and being more particularly described as follows:

As the point of beginning, start at the point where the South right-of-way margin of Interstate Highway I-59/20 intersects the East boundary of Section 36, Township 21 South, Range 10 West; thence run westerly along the South right-of-way margin of Interstate Highway I-59/20 to a point on the West boundary of the Southeast Quarter of the Southeast Quarter (SE 1/4 of the SE 1/4) of said Section 36; thence run northerly along the West boundary of the Southeast Quarter of the Southeast Quarter to a point on the North right-of-way margin of Interstate Highway I-59/20; thence with a deflection angle of 80 degrees 9 minutes to the right, run easterly a distance of 580.5 feet to a point; thence with a deflection angle of 14 degrees 34 minutes to the left, run northeasterly 338.63 feet to a point; thence with a deflection angle of 73 degrees 22 minutes to the left, run northerly 487.25 feet to a point on the South

boundary of the Catholic Church property; thence with a deflection angle of 103 degrees 45 minutes to the right, run easterly a distance of 502.03 feet to a point on the East boundary of Section 36; thence run northerly along the East boundary of Section 36 to a point which is 210 feet south of the South margin of 37th Street East as it existed in 1958; thence run easterly parallel to the centerline of 37th Street East and along the present Corporate Limits of Tuscaloosa to a point which is 210 feet East of a southward projection of the East right-of-way margin of Albright Road; thence run northerly parallel to, and 210 feet East of, a southward projection of the East right-of-way margin of Albright Road to a point on the North boundary of the Southwest Quarter (SW 1/4) of Section 31, Township 21 South, Range 9 West; thence run easterly along the North boundary of the Southwest Quarter of Section 31 to the Northeast corner of said Southwest Quarter; thence run southerly along the East boundary of the Southwest Quarter to a point on the North right-of-way margin of Interstate Highway I-59/20; thence run northeasterly along the North right-of-way margin of Interstate Highway I-59/20 to a point on the North boundary of the Southeast Quarter (SE 1/4) of said Section 31; thence run easterly along the North boundary of said Southeast Quarter to a point on the East boundary of said Section 31; thence run southerly along the East boundary of Section 31 to a point on the South right-of-way margin of Interstate Highway 59/20; thence run westerly along the South margin of Interstate Highway I-59/20 to a point on the East boundary of Section 36, Township 21 South, Range 10 West, being the point of beginning, LESS AND EXCEPT a tract described as follows:

Start at the Northeast corner of the Northwest Quarter of the Southwest Quarter (NW 1/4 of the SW 1/4) of Section 31, Township 21 South, Range 9 West; thence run westerly along the North boundary of the said Northwest Quarter of the Southwest Quarter a distance of 318.32 feet to a point; thence with a deflection angle of 97 degrees 14 minutes to the left, run southerly a distance of 11.31 feet, more or less, to a point on the South margin of 37th Street East, which is the point of beginning; thence continue southwardly along the line last described a distance of 199.82 feet to a point; thence with a deflection angle of 95 degrees 11 minutes 20 seconds to the right, run westerly a distance of 138.294 feet to a point; thence with a deflection angle of 95 degrees 17 minutes 30 seconds to the left, run southerly a distance of 98.727 feet to a point; thence with a deflection angle of 9 degrees 57 minutes 30 seconds to the right, run southerly for a distance of 250.025 feet to a point; thence with a deflection angle of 92 degrees 23 minutes to the right, run westerly a distance of 201.73 feet to a point; thence with a deflection angle of 89 degrees 50 minutes to the right, run northerly a distance of 50.0 feet to a point; thence with a deflection

angle of 89 degrees 44 minutes to the left, run westerly a distance of 201.48 feet to a point on the East right-of-way margin of McFarland Boulevard; thence run northerly along the East right-of-way margin of McFarland Boulevard to a point on the South margin of 37th Street East; thence run easterly along the South margin of 37th Street East to the point of beginning.

And further LESS AND EXCEPT that certain tract of land lying South of the Tuscaloosa Area Vocational School and North of Interstate Highway I-59/20 which was conveyed to George W. Dockery, Jr., as described in Deed Book 980 at Page 518 in the Probate Records of Tuscaloosa County, reference to which deed is made in aid of this description.

And further LESS AND EXCEPT the following described parcel: Start at the Northwest corner of the Southwest Quarter (SW 1/4) of Section 31, Township 21 South, Range 9 West; thence run southerly along the West boundary of said Southwest Quarter a distance of 629.52 feet to the point of beginning; thence continue southerly along the West line of said Southwest Quarter a distance of 253.80 feet to a point; thence with a deflection angle of 97 degrees 50 minutes to the left, run easterly a distance of 218.44 feet to a point on the West right-of-way margin of U.S. Highway 82; thence with a deflection angle of 76 degrees 18 minutes to the left, run northerly along the West margin of U.S. Highway 82 a distance of 200.0 feet to a point, thence with a deflection angle of 89 degrees 49 minutes to the left, run easterly a distance of 238.18 feet to a point of the West boundary of the Southwest Quarter of Section 31, being the point of beginning.

Tract 2

A tract of land lying in Sections 26, 27, 34, and 35, Township 21 South, Range 10 West, in Tuscaloosa County, Alabama, being more particularly described as follows:

As the point of beginning, start at the intersection of the North margin of 35th Street and the West margin of the Southrail Corporation Railroad; thence run easterly along the North margin of 35th Street and the present Corporate Limits of Tuscaloosa to a point on the east margin of a former Southrail Corporation Railroad spur; thence run northerly along the East margin of the former rail spur to the Northwest corner of an unnumbered lot, originally measuring 116' by 360' and lying Northwest of Lot No. 4 of the Henry T. Burks Farm Survey, as recorded in Plat Book 5 at Page 56 in the Probate Records of Tuscaloosa County; thence run easterly along the North boundary of said unnumbered lot to a point on the West right-of-way margin of Interstate Highway 359; thence run northerly along the West right-of-way margin of

Interstate Highway 359 to a point on the South right-of-way margin of 31st Street; thence run westerly along the South margin of 31st Street to a point which intersects a southward extension of the East margin of Southside Drive; thence run northerly along the said southward extension to a point on the North right-of-way margin of 31st Street; thence run easterly along the North margin of 31st Street to a point on the West right-of-way margin of Interstate Highway 359; thence run northerly along the West margin of Interstate Highway 359 to a point on the South boundary of Lot 27 of the J. L. Maddox Survey, as recorded in Plat Book 1 at Page 57 in the Probate Records of Tuscaloosa County; thence run westerly along the South boundary of the J. L. Maddox Survey to the Southwest corner of lot 22 of said J. L. Maddox Survey; thence run northerly along the West boundary of said Lot 22 and along a northward extension of said West boundary to a point on the South boundary of Lot 12 of said J. L. Maddox Survey; thence run easterly along the said South boundary to the Southeast corner of said Lot 12; thence run northerly along the said East boundary to the Northeast corner of Lot 12; thence run westerly along the North boundary of Lot 12 and a westward extension of said North boundary to the Northeast corner of Lot 13 of said J. L. Maddox Survey; thence run westerly along the North boundary of Lot 13 to the Northwest corner of Lot 13; thence run southerly along the West boundary of Lot 13, along a southward extension of said West boundary, and along the West boundary of Lot 20 of said J. L. Maddox Survey to the Southwest corner of Lot 20; thence run westerly along the South boundary of Lot 19, 18, and 17 of said J. L. Maddox Survey to the Southwest corner of Lot 17; thence run northerly along the West boundary of the J. L. Maddox Survey to the Southwest corner of Lot 16 of the J. L. Maddox Survey; thence run easterly along the South boundary of Lot 16 to the Southeast corner of Lot 16; thence run northerly along the East boundary of Lot 16 to the Northeast corner of Lot 16; thence run westerly along the North boundary of Lot 16 to a point on the east boundary of Section 34; thence run northerly along the East boundary of Section 34 to the Northeast corner of Section 34, being also the Southeast corner of Section 27; thence run northerly along the East boundary of Section 27 a distance of 30 feet more or less to a point on the South margin of a street right-of-way; thence run westerly parallel to the South boundary of Section 27 for a distance of 265 feet to a point; thence with a deflection angle of 90 degrees 00 minutes to the right, run northerly a distance of 200 feet to a point; thence with a deflection angle of 90 degrees 00 minutes to the right, run easterly a distance of 440 feet to a point on the West margin of Southside Drive, being on the present Corporate Limits of Tuscaloosa; thence run northerly along the present Corporate Limits of Tuscaloosa, being a line formed by the

east boundary of Blocks 607, 663, 694, and 751 of the Tuscaloosa Coal, Iron, and Land Company Survey, as recorded in Plat Book 4 at Page 24 in the Probate Records of Tuscaloosa County, to a point located 40 feet south of Block 576 of said T.C.I. & L. Survey; thence run westerly along the present Corporate Limits and parallel to, and 40 feet south of, the South boundary of said Block 576, as extended to the west, to a point on the West right-of-way margin of the Southrail Corporation Railroad; thence run southeasterly along the West margin of the Southrail Corporation Railroad to a point on the North margin of 35th Street being the point of beginning, LESS AND EXCEPT that certain property of R. L. Zeigler Company, Inc. which is described in Deed Book 537 at Page 74 in the Probate Records of Tuscaloosa County, and further LESS AND EXCEPT Lots 13, 16, 20, and a strip 17 feet in width off of the East side of Lot 21 of the J. L. Maddox Survey, as recorded in Plat Book 1 at Page 57 in the Probate Records of Tuscaloosa County, and further LESS AND EXCEPT all that land situated South of the said J. L. Maddox Survey, North of 31st Street, West of Interstate Highway 359, and East of Southside Drive, and further LESS AND EXCEPT all that land situated South of the said J. L. Maddox Survey, North of 31st Street, West of Southside Drive, and East of the West Boundary of Section 35, Township 21 South, Range 10 West, and further LESS AND EXCEPT that portion of the Northeast Quarter of the Northeast Quarter (N 1/4 of the NE 1/4) of Section 34, Township 21 South, Range 10 West which lies North of 31st Street and East of the Southrail Corporation Railroad, and further LESS AND EXCEPT the following described parcel: As the point of beginning, start at the intersection of the South right-of-way margin of 31st Street and the East boundary of the MidSouth Railroad property; thence run southeasterly along the East boundary of the MidSouth Railroad property a distance of 580.20 feet to a point; thence with a deflection angle of 64 degrees 20 minutes to the left, run easterly a distance of 100.34 feet to a point; thence with a deflection angle of 5 degrees 39 minutes to the left, run easterly a distance of 401.94 feet to a point; thence with a deflection angle of 23 degrees 12 minutes to the left, run northeasterly a distance of 53.96 feet to a point; thence with a deflection angle of 80 degrees 3 minutes to the right, run easterly a distance of 295.08 feet, more or less, to a point on the West right-of-way margin of Interstate Highway 359; thence run northerly along the West right-of-way margin of Interstate Highway 359 to a point on the South right-of-way margin of 31st Street; thence run westerly along the South right-of-way margin of 31st Street to a point on the East boundary of the MidSouth Railroad property, being the point of beginning, and further LESS AND EXCEPT that portion of Block 607, T. C. I. & L., as recorded in Plat Book 4 at Page 24 in the Probate Records of

Tuscaloosa County which lies outside the right-of-way of Interstate Highway 359.

Tract 3

To locate the point of beginning, start at the Southwest corner of the Northeast Quarter (NE 1/4) of Section 35, Township 21 South, Range 10 West; thence run easterly along the South boundary of said Northeast Quarter a distance of 208.7 feet to a point, being the point of beginning; thence run North 1 degree 20 minutes East a distance of 611.8 feet to a point; thence run North 8 degrees 24 minutes East a distance of 119.2 feet to a point on the Southwest right-of-way margin of Greensboro Avenue; thence run southeasterly along the Southwest margin of Greensboro Avenue to a point on the North boundary of Searcy Heights, as recorded in Plat Book 4 at Page 140 in the Probate Records of Tuscaloosa County; thence run westerly along the North boundary of Searcy Heights to the Northeast corner of Lot 8 of said Searcy Heights; thence run southerly along the East boundary of Lot 8 a distance of 425 feet to a point; thence run westerly parallel to the North boundary of Searcy Heights to a point on the West boundary of Lot 9 of Searcy Heights; thence run northerly along the West boundary of Lot 9 to the Northwest corner of Lot 9; thence run westerly along the North boundary of Searcy Heights to a point which is 1,323.27 feet east of the East right-of-way margin of Interstate Highway 359, said point being the Southeast corner of the Isaac Richardson property; thence with a deflection angle of 86 degrees 50 minutes to the right, run northerly along the East boundary of the Isaac Richardson Property a distance of 306.40 feet to a point; thence with a deflection angle to the right of 73 degrees 33 minutes, run northeasterly a distance of 225 feet to a point; thence with a deflection angle of 87 degrees 12 minutes to the left, run **northwesterly a distance of 264.06 feet to a point**; thence with a deflection angle of 92 degrees 48 minutes to the left, run southwesterly a distance of 160 feet to a point; thence with a deflection angle of 106 degrees 27 minutes to the right run northerly to a point on the North bank of Cribbs Mill Creek; thence run easterly along the North bank of Cribbs Mill Creek to a point which is 418.33 feet west of the West right-of-way margin of Greensboro Avenue, as measured along the North bank of Cribbs Mill Creek, being the Southwest corner of the Aaron Geer property, as recorded in Deed Book 1095 at Page 115 in the Probate Records of Tuscaloosa County; thence, with a deflection angle to the left of 85 degrees 27 minutes run northerly a distance of 199.50 feet to a point; thence run northerly parallel to the West right-of-way margin of Greensboro Avenue, a distance of 25 feet, more or less, to a point on the North boundary of a 30 foot sanitary sewer easement, being also the South boundary of that property conveyed to James

M. Cain, Sr., as recorded in Deed Book 921 at Page 417 in the Probate Records of Tuscaloosa County; thence with a deflection angle of 94 degrees 55 minutes to the left run westerly along the North boundary of the 30 foot sanitary sewer easement a distance of 11 feet, more or less, to the Southwest corner of the said Cain property, thence with a deflection angle to the right of 71 degrees 29 minutes run northwesterly for a distance of 239.51 feet to a point; thence with a deflection angle to the right of 47 degrees 59 minutes run northeasterly 230.0 feet to a point; thence with a deflection angle to the left of 107 degrees 45 minutes run westerly a distance of 105.32 feet to a point; thence with a deflection angle to the left of 65 degrees 42 minutes run southwesterly a distance of 78.05 feet to a point on the South boundary of the Northeast Quarter (NE 1/4) of Section 35, Township 21 South, Range 10 West; thence run westerly along the South boundary of the said Northeast Quarter a distance of 162.5 feet to the point of beginning, LESS AND EXCEPT the Atlas Welding Supply Company, Inc. property, as recorded in Deed Book 873 at Page 17 in the Probate Records of Tuscaloosa County.

Tract 4

As the point of beginning, start at the Southeast corner of Lot 2 of South Plaza Industrial Park No. 2, as recorded in Plat Book 13 at Page 151 in the Probate Records of Tuscaloosa County; thence run westerly along the South boundary of said Lot 2 to the Southwest corner of Lot 2, being on the East right-of-way margin of Interstate Highway 359; thence run northwesterly and northerly along the West boundary of said Lot 2 to the Northwest corner of Lot 2, being the southwest corner of Lot 3 of South Plaza Industrial Park No. 3, as recorded in Plat Book 14 at Page 104 in the Probate Records of Tuscaloosa County; thence run northerly along the West boundary of said Lot 3 to the Northwest corner of Lot 3; thence run easterly along the North boundary of Lot 3 to the Northeast corner of Lot 3, being also the Northwest corner of Lot 1 of the South Plaza Industrial Park, as recorded in Plat Book 13 at Page 73 in the Probate Records of Tuscaloosa County; thence run easterly along the North boundary of Lot 1 to the Northeast corner of Lot 1; thence run easterly along an extension of the North boundary of Lot 1 a distance of 60.03 feet to a point on the East right-of-way margin of 11th Avenue; thence continue easterly along a continuation of the line last described a distance of 242 feet to a point; thence run southerly parallel to the East margin of 11th Avenue a distance of 90 feet to a point; thence run westerly parallel to the North boundary of South Plaza Industrial Park a distance of 242 feet to a point on the East margin of 11th Avenue; thence run southerly along the East margin of 11th Avenue to the Northeast corner of Lot 2 of South Plaza Industrial Park No. 2 as

herein above referenced; thence continue southerly along the East boundary of Lot 2 to the Southeast corner of Lot 2, being the point of beginning.

Tract 5

As the point of beginning, start at the Northwest corner of the South half of the Southeast Quarter (S 1/2 of the SE 1/4) of Section 31, Township 21 South, Range 9 West; thence run easterly along the North boundary of the South Half of the Southeast Quarter to a point on the East boundary of said Section 31; thence run southerly along the East boundary of Section 31 to a point on the North right-of-way margin of U. S. Highway 11; thence run westerly along the North right-of-way margin of U. S. Highway 11 to a point which is 1,407.20 feet, more or less, West of the East boundary of said Section 31; thence with a deflection angle of 83 degrees 49 minutes to the left, run southerly along the present Corporate Limits of Tuscaloosa a distance of 431.07 feet to a point; thence with a deflection angle of 90 degrees to the right, run 5 feet to a point; thence with a deflection angle of 90 degrees to the left, run 10 feet to a point on the South boundary of said Section 31; thence run westerly along the South boundary of Section 31 to a point which is 1,400 feet, more or less, East of the intersection of the South margin of U. S. Highway 11 and the South boundary of Section 31; thence run northerly along the present Corporate Limits of Tuscaloosa to a point on the South margin of U. S. Highway 11; thence run westerly along the South margin of U. S. Highway 11 to a point which is 300 feet (measured perpendicularly) West of the East boundary of the Southwest Quarter (SW 1/4) of Section 31; thence run northerly parallel to, and 300 feet West of, the East boundary of the said Southwest Quarter a distance of 984.42 feet to a point; thence with a deflection angle of 90 degrees to the right, run easterly a distance of 300 feet to a point on the West boundary of the South Half of the Southeast Quarter (S 1/2 of the SE 1/4) of Section 31; thence run northerly along the West boundary of said South Half of the Southeast Quarter to the Northwest corner thereof, being the point of beginning.

Tract 6

As the point of beginning, start at the point where the Southwest right-of-way margin of Hargrove Road East intersects the West boundary of Section 33, Township 21 South, Range 9 West; thence run northerly along the West boundary of Section 33 to the Southwest corner of Lot 12 of Woodland Road Subdivision, as recorded in Plat Book 7 at Page 146 in the Probate Records of Tuscaloosa County; thence run counter-clockwise around the southern and eastern boundary of said Lot 12 to a point on the North boundary of the Southwest Quarter (SW 1/4) of the aforesaid

Section 33; thence run easterly along the North boundary of the Southwest Quarter to a point on the East boundary of Woodland Road as it existed in January, 1968; thence run southerly along the curving East boundary of Woodland Road as it existed in 1968 to the North corner of that certain Parcel #1 as described in Deed Book 768 at Page 428 in the Probate Records of Tuscaloosa County; thence run southerly along the East boundary of said Parcel #1 to the Southeast corner of Parcel #1, being also the Northeast corner of Parcel #2 as described in Deed Book 768 at Page 428 in the Probate Records of Tuscaloosa County; thence run southerly along the East boundary of Parcel #2 to a point on the Northeast margin of Hargrove Road East; thence run southeasterly along the Northeast margin of Hargrove Road East a distance of 288 feet, more or less, to a point on the centerline of a 100-foot Alabama Power Company right-of-way; thence run westerly along the centerline of the Alabama Power Company right-of-way to a point on the Southwest margin of Hargrove Road East; thence run southeasterly along the Southwest margin of Hargrove Road East a distance of 160 feet, more or less, to the Southeast corner of the Alabama Power Company property, as described, in Deed Book 682 at Page 63 in the Probate Records of Tuscaloosa County; thence with a deflection angle to the right of 97 degrees 08 minutes, run southwesterly a distance of 211.6 feet to a point; thence with a deflection angle to the right of 82 degrees 52 minutes, run northwesterly a distance of 210.0 feet to a point on the North right-of-way boundary of an Alabama Power Company easement; thence with a deflection angle to the right of 97 degrees 08 minutes, run northeasterly along the North boundary of the said easement a distance of 211.6 feet to a point, on the Southwest right-of-way margin of Hargrove Road East; thence run northwesterly along the Southwest margin of Hargrove Road East to a point on the West boundary of Section 33, Township 21 South, Range 9 West, being the point of beginning.

Tract 7

A tract of land located in the Southeast Quarter of the Southeast Quarter (SE 1/4 of the SE 1/4) of Section 31, Township 21 South, Range 9 West, and in the Southwest Quarter of the Southwest Quarter (SW 1/4 of the SW 1/4) of Section 32, Township 21 South, Range 9 West, all in Tuscaloosa County, Alabama, being more particularly described as follows:

As the point of beginning, start at the Southeast corner of said Section 31; thence run westerly along the South boundary of Section 31 a distance of 418.0 feet, more or less, to the Southwest corner of the Seventh Day Adventist Church property; thence with a deflection angle to the right of 89 degrees 28 minutes, run northerly along

the West boundary of the Seventh Day Adventist Church property to a point on the South right-of-way margin of U.S. Highway 11; thence run easterly along the South margin of U.S. Highway 11 to a point which is 422 feet, more or less, East of the West boundary of Section 32, Township 21 South, Range 9 West, being the Northwest corner of the property deeded to Jerome F. Cutts as recorded in Deed Book 993 at Page 668 in the Probate Records of Tuscaloosa County; thence with a deflection angle to the right of 95 degrees 23 minutes, run southerly along the West boundary of the Cutts property to a point which is 211.82 feet North of the South boundary of Section 32; thence with a deflection angle to the right of 91 degrees 0 minutes, run westerly a distance of 210.13 feet to a point; thence run southerly parallel to the West boundary of Section 32 to a point on the South boundary of Section 32; thence run westerly along the South boundary of Section 32 to the Southwest corner of Section 32, being also the Southeast corner of Section 31, which is the point of beginning.

Tract 9

A tract of land located in the Northwest Quarter of the Northwest Quarter of Section 28, Township 21 South, Range 10 West, being more particularly described as follows:

As the point of beginning, start at the intersection of the Southeast right-of-way margin of Culver Road (U.S. Highway 43) and the Northeast right-of-way margin of 17th Place; thence run southeasterly along the Northeast margin of 17th Place a distance of 165.53 feet to a point; thence with a deflection angle of 90 degrees to the left, run northeasterly a distance of 298.10 feet to a point on the South boundary of the Kidd C. Kelley property as described in Deed Book 578 at Page 553 in the Probate Records of Tuscaloosa County; thence run easterly a distance of 618.75 feet, more or less, to the Southeast corner of the Kelley property; thence run northerly along the East boundary of the Kelley property to a point on the Southeast right-of-way margin of Culver Road (U.S. Highway 43); thence run southwesterly along the Southwest right-of-way margin of Culver Road to a point on the Northeast right-of-way margin of 17th Place, being the point of beginning.

Tract 10

A portion of the Northeast Quarter of the Southeast Quarter (NE 1/4 of the SE 1/4) of Section 33, Township 21 South, Range 9 West in Tuscaloosa County, Alabama, being more particularly described as follows:

To locate the point of beginning, start at the Southwest corner of the said Northeast Quarter of the Southeast Quarter; thence run northerly along the West boundary of said Northeast Quarter

of the Southeast Quarter a distance of 500.86 feet, more or less to a point on the North right-of-way margin of McGee Road, being the point of beginning; thence continue northerly along the last stated course for 116.09 feet to a point on the South right-of-way margin of U.S. Highway 11, said right-of-way margin being on a curve to the left going northeasterly, said curve having a radius of 8,305.15 feet and a central angle of 1 degrees 14 minutes 30 seconds and a chord of 179.49 feet; thence turn 65 degrees 04 minutes 17 seconds right to the chord of said curve and run northeasterly along the arc of said curve for 179.50 feet running along said right-of-way line to the end of said curve; thence from the last stated chord turn 90 degrees 29 minutes 10 seconds left and run northwesterly for 19.96 feet to a concrete right-of-way marker on said southerly right-of-way line, said right-of-way running northeasterly from this point being on a curve to the left, said curve having a radius of 8,285.15 feet and a central angle of 3 degrees 29 minutes 57 seconds and a chord of 505.87 feet; thence turn 88 degrees 02 minutes 54 seconds right to the chord of said curve and run northeasterly along the arc of said curve and along said right-of-way line for 505.98 feet to a point where said right-of-way line intersects the southwesterly right-of-way line of Interstate Highway No. I-59; thence with a deflection angle of 111 degrees 58 minutes to the right from the chord of the last described curve, run southerly a distance of 461.93 feet to a point on the North right-of-way margin of McGee Road; thence run westerly along the North margin of McGee Road to a point on the West boundary of the said Northeast Quarter of the Southeast Quarter of Section 33, being the point of beginning.

Tract 13

To locate the point of beginning, start at the Southwest corner of the Southeast Quarter of the Southeast Quarter (SE 1/4 of the SE 1/4) of Section 36, Township 21 South, Range 10 West; thence easterly along the South boundary of the said Southeast Quarter of the Southeast Quarter a distance of 161.8 feet to a point; thence with a deflection angle of 83 degrees and 24 minutes to the right run southerly a distance of 192.7 feet to a point on the North boundary of U.S. Highway 11; thence easterly along the curving North boundary of U.S. Highway 11 for a distance of 217.84 feet to a P. T. (Highway 386 + 88.9); thence continue easterly along the North boundary of U. S. Highway 11 for a distance of 664.9 feet to the point of beginning of the property described herein; thence continue easterly along the North boundary of U.S. Highway 11 for a distance of 150 feet to a point; thence with a deflection angle of 39 degrees and 47 minutes to the left, run northeasterly along a highway right-of-way boundary a distance of 152.8 feet to a point; thence with a deflection angle of 29 degrees and 26 minutes to the

left, run in a northerly direction along the West boundary of U. S. Highway 82 a distance of 66.04 feet to a point on the East boundary of said Southeast Quarter of the Southeast Quarter; thence with a deflection angle of 8 degrees and 57 minutes to the left, run northerly along the West boundary of U. S. Highway 82 a distance of 83.96 feet to a point; thence with a deflection angle of 101 degrees and 50 minutes to the left, run westerly and parallel to the North boundary of U. S. Highway 11 for a distance of 257.44 feet to a point; thence with a deflection angle of 78 degrees and 10 minutes to the left, run southerly for a distance of 247.0 feet to the point of beginning.

Tract 14

To locate the point of beginning, start at the Southeast corner of the Southwest Quarter of the Southwest Quarter (SW 1/4 of the SW 1/4) of Section 6, Township 22 South, Range 9 West; thence run westerly along the South boundary of the said Southwest Quarter of the Southwest Quarter to a point on the East right-of-way margin of U.S. Highway 82, which is the point of beginning; thence with a deflection angle of 82 degrees 59 minutes to the right, run northerly a distance of 30.01 feet to a point; thence with a deflection angle of 7 degrees 25 minutes to the left, run northerly a distance of 100.57 feet to a point; thence with a deflection angle of 8 degrees 17 minutes to the right, run northerly a distance of 420.54 feet to a point; thence with deflection angle of 82 degrees 49 minutes to the right, run northeasterly along the present Corporate Limits of Tuscaloosa a distance of 674.82 feet, more or less, to a point; thence with a deflection angle of 101 degrees 27 minutes to the right, run southerly a distance of 270 feet to a point; thence with a deflection angle of 90 degrees 0 minutes to the left, run easterly a distance of 170 feet, more or less, to a point which is 100 feet west of the East line of the said Southwest Quarter of the Southwest Quarter; thence run southerly parallel to, and 100 feet west of, the East boundary of the said Southwest Quarter of the Southwest Quarter to a point on the South boundary of the said Southwest Quarter of the Southwest Quarter; thence continue southerly along an extension of the line last described a distance of 40 feet, more or less, to a point on the South right-of-way margin of a County Road variously known as Boswell Road and 12th Avenue East; thence run westerly and southerly along the curving southern and eastern right-of-way margin of the said County Road, and along the present Corporate Limits of Tuscaloosa, to a point on a branch flowing westerly across the said County Road; thence run westerly along the meanders of the said branch, and along the present Corporate Limits of Tuscaloosa, to a point on the East right-of-way margin of U.S. Highway 82; thence run northerly along the East right-of-way margin of U.S. Highway 82 a distance of 205 feet, more or less to the Southwest

corner of the Hugo L. and Betty F. Hendrix property, as recorded in Deed Book 802 at Page 354 in the Probate Records of Tuscaloosa County; thence with a deflection angle of 95 degrees 55 minutes to the right, run easterly for a distance of 127.24 feet to a point on the curve of the West boundary of the above-mentioned Boswell Road, said curve having a delta of 29 degrees 32 minutes to the right and a centerline tangent of 50 feet; thence with an interior angle to the chord of 103 degrees 03 minutes 40 seconds for a chord distance of 83.08 feet to the point of tangency; thence with an interior angle of 191 degrees 10 minutes to the chord, run in a northerly direction along said tangent line and West right-of-way for a distance of 300.20 feet to a point of curve, said curve having a delta angle of 22 degrees 51 minutes 40 seconds to the left and centerline tangent of 100.00 feet; thence with an interior angle to the chord of 168 degrees 34 minutes 10 seconds, run a chord distance of 186.12 feet to the point of tangency of said curve; thence with an interior angle to the chord of 168 degrees 34 minutes 10 seconds, run along said tangent line for 6.98 feet to a point on fence line; thence with an interior angle of 88 degrees 05 minutes, run westerly along said fence line for a distance of 387.85 feet to a point on the East right-of-way margin of U. S. Highway 82; thence run northerly along the East right-of-way margin of U. S. Highway 82 to a point on the South boundary of the Southwest quarter of the Southwest Quarter (SW 1/4 of the SW 1/4) of Section 6, Township 22 South, Range 9 West, being the point of beginning. LESS AND EXCEPT THAT PORTION OF THE SAID PROPERTY LYING IN SECTION 7, TOWNSHIP 22 SOUTH, RANGE 9 WEST.

Tract 15

Part of the Northeast quarter of the Northwest Quarter (NE 1/4 of the NW 1/4) of Section 5, Township 22 South, Range 9 West in Tuscaloosa County, being more particularly described as follows:

Start at the Northwest corner of the said Northeast Quarter of the Northwest Quarter; thence run southerly along the West boundary of the Northeast Quarter of the Northwest Quarter a distance of 787.68 feet to a point; thence with a deflection angle of 88 degrees 12 minutes to the left, run easterly to a point on the West boundary of the Southeast Quarter of the Northeast Quarter of the Northwest Quarter (SE 1/4 of the NE 1/4 of the NW 1/4) of said Section 5, which is the point of beginning; thence continue easterly along the course last described to a point which is 741.25 feet East of the West boundary of the Northeast Quarter of the Northwest Quarter; thence with a deflection angle of 87 degrees 38 minutes to the right, run southerly to a point on the South boundary of the Southeast Quarter of the Northeast Quarter of the Northwest Quarter; thence run easterly along the South boundary of the Southeast Quarter of the Northeast Quarter of

the Northwest Quarter to the Southeast corner thereof; thence run northerly along the East boundary of the said Southeast Quarter of the Northeast quarter of the Northwest Quarter to the Northeast corner thereof; thence run westerly along the North boundary of the said Southeast Quarter of the Northeast Quarter of the Northwest Quarter to the Northwest corner thereof; thence run southerly along the West boundary of the said Southeast Quarter of the Northeast Quarter of the Northwest Quarter to the point of beginning.

Section 2. Provided; however, except in regard to the assessment, payment and collection of business licenses and sales or use taxes by the annexing municipality, neither this act nor the annexations effected hereby shall alter the method of payment, the distribution formulas or recipients of ad valorem or gasoline taxes otherwise provided for by law in existence prior to the adoption of this act. Should an additional ad valorem tax be subsequently imposed for the benefit of the County School System, said tax shall apply to parcels annexed by the provision hereof to the same and like extent as if such parcels had never been so annexed.

Provided; further, in the event the provisions of this Section or any portion thereof is declared invalid or unconstitutional by any court of competent jurisdiction, then the City of Tuscaloosa shall, each year, reimburse Tuscaloosa County and/or the Tuscaloosa County School System, as the case may be, an amount equal to any ad valorem tax revenues or gasoline tax revenues, Tuscaloosa County and/or the Tuscaloosa County School System would have received, except for, the annexations effected hereby.

Section 3. The provisions of this act are severable, If any part of this act is declared invalid or unconstitutional, such declaration shall not affect the part which remains.

Section 4. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved May 19, 1993

Time: 5:55 P.M.

Act No. 93-709

H. 631 – Rep. Freeman

AN ACT

Relating to Madison County; authorizing the Madison County Commission to further regulate and license the operation of junkyards and prohibit certain accumulation and storage of junk, inoperable motor vehicles, and other litter within the unincorporated territory of the county; amending the title of Act No. 92-502, H. 802

of the 1992 Regular Session (Acts 1992, p. 981) to provide that certain acts constitute a public nuisance and are unlawful; to provide certain exceptions; to provide civil remedies, including actions to enjoin and abate a public nuisance; and to provide that the county commission may regulate and establish requirements for issuing licenses to operate junkyards or store junk and to increase the annual license fee for the privilege; and amending Sections 1, 2, 3, and 4 of Act No. 92-502 and repealing Section 5 of that act which provides for misdemeanor penalties.

Be It Enacted by the Legislature of Alabama:

Section 1. The regulation of the accumulation and storage of junk, inoperable motor vehicles, and other litter within the unincorporated areas of Madison County, and licensing the operation of junkyards within the unincorporated areas of Madison County is hereby declared to be in the public interest and necessary to promote the public safety, health, welfare, convenience, enjoyment of public travel, to protect the public investment in public highways, to preserve and enhance the scenic beauty of lands and the environment, and to promote the conservation of natural mineral resources by encouraging recycling. The Legislature hereby finds and declares that within the unincorporated areas of Madison County the accumulation and storage of junk, inoperable motor vehicles, and other litter and the operation of junkyards which do not conform to the requirements of this act are a public nuisance.

Section 2. The title and Sections 1, 2, 3, and 4 of Act No. 92-502, H. 802 of the 1992 Regular Session (Acts 1992, p. 981) are amended to read as follows:

“An Act Relating to Madison County; authorizing the Madison County Commission to further regulate and license the operation of a junkyard and prohibit certain accumulation and storage of junk, inoperable motor vehicles, and other litter within the unincorporated territory; to provide that certain acts constitute a public nuisance and are unlawful; to provide certain exceptions; to provide civil remedies including actions to enjoin and abate conduct constituting a public nuisance; and to provide that the county commission may regulate and establish requirements for issuing licenses to operate junkyards or store junk and to increase the annual license fee for the privilege.

“Section 1. (a) It shall be unlawful and constitute a public nuisance for the owner or other person in charge or control of a building, lot, junkyard, or other premises, within the unincorporated territory of Madison County to fail to keep the lot, junkyard, or premises clean and free from garbage, refuse, litter, junk, debris, salvaged materials, household furniture, trash, used motor vehicle tires, inoperable motor vehicles, kitchen and other household appliances, rags, paper, cardboard and other nondecorative matter, including any materials within which water may accumulate or

which may shelter or encourage the growth of insects or rodents, or materials which generate obnoxious odors, or which offend the esthetics of the community and thereby cause a substantial diminution in the value of other property nearby, or which threaten the health and safety of any citizen.

“(b) This act shall not apply to any company, corporation, or business currently operating, whose primary purpose or business is to burn or incinerate wood materials, salvage materials, building refuse, waste products, timber stumps, trees, or brush and other debris that results from clearing land, cutting timber or refurbishing or constructing buildings. This act shall not apply to farm buildings or farm equipment and farm materials stored around farm buildings on a farm.

“Section 2. (a) Except as provided in subsection (b) of this section, it is unlawful and constitutes a public nuisance for any person to park, leave, or store upon any place or premises in public view within the unincorporated territory of Madison County more than one motor vehicle which is not currently and validly registered and tagged as required by state law.

“(b) Subsection (a) does not apply to a licensed business if the parking, leaving, or storing of the motor vehicle is reasonably necessary in the operation of the business, directly or indirectly.

“Section 3. No person shall establish, operate, or maintain a junkyard containing any items listed in Section 1 of this act, but not limited to those items, any portion of which is within 1,000 feet of the nearest edge of the right-of-way of any highway, without obtaining a county license to do so from the county commission through the county license director. No license shall be granted except for those junkyards which are screened by natural objects, plantings, fences, or other appropriate means so as not to be visible from the highway. The operation of an unlicensed junkyard constitutes a public nuisance.

“The county commission shall adopt regulations and requirements for issuing licenses for the operation of junkyards within the limits defined in this act, and may revoke the licenses at any time a junkyard fails to conform to the requirements of this act, and shall charge a license fee of not more than one thousand dollars (\$1,000) nor less than five hundred dollars (\$500) payable each fiscal year. This license fee shall be in addition to the license fee required under Section 23-1-244, Code of Alabama 1975. All licenses issued under this act shall expire on September 30 following the date of issue. Licenses may be renewed from year to year upon payment of the fee. Proceeds from the fees shall be deposited in the general fund of the county.

“Section 4. (a) This act shall be enforced by the Madison County Commission.

(b) The Madison County Commission may commence a civil action in the name of the Madison County Commission in the Circuit Court of Madison County, Alabama, to abate or enjoin any public nuisances declared by this act. In any such action, the Circuit Court of Madison County, Alabama, is authorized to assess all costs of abating the public nuisance declared by this act, including attorney’s fees, court costs, and all other expenses of litigation, against the person creating or maintaining the public nuisance.”

Section 2. Section 5 of Act No. 92-502, H. 802 of the 1992 Regular Session is hereby specifically repealed.

Section 3. The provisions of this act are severable. If any part of this act is declared invalid or unconstitutional, that declaration shall not affect the part which remains.

Section 4. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved May 19, 1993

Time: 5:56 P.M.

Act No. 93-710

S. 558 – Senator Bedsole

AN ACT

Relating to Mobile County; to amend Act No. 83-731, S. 377, 1983 Regular Session, which created the Mobile County Bingo Act, to provide further for the operation of bingo games in the county.

Be It Enacted by the Legislature of Alabama:

Section 1. Sections 2, 4, 5, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 19, and 22 of Act No. 83-731 S. 377, 1983 Regular Session, the Mobile County Bingo Act, are amended to read as follows:

“Section 2. As used in this act, the following words shall have the following meanings as ascribed herein, unless the context clearly indicates otherwise:

“(1) ‘Bingo’ means that game commonly known as bingo where numbers or symbols on a card or paper sheet are matched with numbers or symbols selected at random.

"(2) 'Bingo session' means a consecutive period of time not to exceed five consecutive hours during which bingo is played in a given day and not to exceed two such days in a given week, except for special permit holders. A session shall commence with the calling of the first number or symbol of the very first game of bingo. The session shall end with the calling of the final number or symbol of the last game of bingo.

"(3) 'Location' means a single building, hall, enclosure, or outdoor area used for the purpose of playing bingo pursuant to a permit issued under this act.

"(4) 'Permit holder' means a qualified organization which has been issued a permit pursuant to this act.

"(5) 'Person' means any human being, corporation, association, or other legal entity.

"(6) 'Qualified organization' means a bona fide religious, educational, service, senior citizens, fraternal, or veterans organization which operates without profit to its members and which either has been in existence continuously as such an organization for a period of 12 months or is exempt from taxation by virtue of having been currently classified locally as a tax exempt nonprofit organization by the Internal Revenue Service, United States Government.

"(7) 'Special permit holder' means one who holds a permit for a special occasion and as provided by Section 5 of this act.

"Section 4. (a) No qualified organization shall be permitted to operate a bingo game unless the sheriff first issues a permit to the organization authorizing it to do so. The permit described in this act is in addition to, and not in lieu of, any other business licenses which may be required by law, and no bingo game shall be operated until such time as all required licenses have been obtained. A copy of each license shall be required and attached to the application. A permit holder may hold only one permit and that permit is valid for only one location. A permit is not assignable or transferable.

"(b) Any qualified organization desiring to obtain a permit to operate bingo games in a calendar year shall make application to the sheriff on forms prescribed by the sheriff and shall pay an annual fee of \$50. Renewal applications shall also be filed with the sheriff.

"(c) The sheriff shall refuse to grant a bingo permit to any applicant who fails to fully provide the information required by this subsection. Each applicant for a permit shall evidence its prior existence for at least 12 months and provide the following information:

"(1) The name, home address, and date of birth of the applicant, and if the applicant is a corporation, association or other similar legal entity, the name, home address, and date of birth of each of

the officers of the organization, as well as the names and addresses and dates of birth of the directors, or other persons similarly situated, of the organization with notarized signatures of each.

"(2) If the applicant is a corporation, association or other such similar legal entity, then only the president, director, or other person similarly situated as head or leader of such organization shall make application for a bingo permit in the name of that organization.

"(3) The name and home address and date of birth of the person who will be in charge of operating or promoting the bingo games.

"(4) The name, home address, and date of birth of any surety for the applicant, and if the surety is a corporation, association, or other similar legal entity, the name, home address, and date of birth of each of the officers of the organization.

"(5) The location at which the applicant will conduct the games of bingo.

"(6) The days of the week which the applicant will conduct the games of bingo.

"(7) There shall be no convictions for criminal offenses, other than minor traffic offenses, for each of the persons listed in subdivisions (1), (2), (3), and (4) above.

"(8) There shall be a five-year residency history in Mobile County for each person listed in subdivision (1), (2), (3), and (4) above.

"(d) Bingo permits may be amended upon resubmission of application and surrender of the old permit and payment of a \$25 fee.

"(e) Bingo permits expire at the end of each 12-month period and must be renewed for each additional 12 months. The sheriff has the discretionary authority to refuse reissuance of any bingo permit for just cause or reason.

"(f) No person shall be an applicant for a bingo permit for more than one organization.

"Section 5. (a) A qualified person or organization which does not hold a bingo permit pursuant to Section 4 of this act, may apply for a special permit for conducting a bingo session at a designated location for a special occasion. Such an applicant shall submit to the sheriff a written application prepared in accordance with and on a form prescribed by rule of the sheriff. The application shall include the information required by subsection (c) of Section 4 of this act, except that the applicant shall indicate the

date or dates on which the applicant will conduct the bingo session for the special occasion.

“(b) Upon determination by the sheriff that the applicant is a qualified organization and is not ineligible pursuant to Section 4 of this act and upon the applicant paying the required fee under this subsection, the sheriff may issue a special permit. The special permit fee shall be \$25 per day.

“(c) Up to six special permits for one day each, not to exceed five hours each day, may be issued per qualified organization per 12-month period. Such days may be consecutive.

“(d) Special bingo permits are not transferable or assignable.

“Section 7. (a) It is the intention of the Legislature that only qualified organizations which are properly issued bingo permits and other licenses, pursuant to this act, shall be allowed to operate bingo games. A qualified organization shall not lend its name or allow its identity to be used by any other person or organization in the operating or promoting of a bingo game.

“(b) It shall be unlawful for one or more qualified organizations to pyramid the valuation of prizes or money in such a manner as to exceed the limits in cash or gifts of equivalent value as provided in Section 10 of this act. The term ‘equivalent value’ shall mean the fair market value of any gift as given as a prize in a bingo game.

“(c) The bingo permit holder shall announce and make known to all bingo players the dollar value of each and every bingo prize to be given at each and every bingo game at each bingo session.

“Section 8. (a) All bingo permit fees collected by the sheriff under this act shall be paid into the Mobile County General Fund.

“(b) (1) An entertainment fee of fifty cents (\$.50) shall be paid by each bingo permit holder for each bingo player at each session of bingo held.

“(2) Sequentially numbered duplicate receipts on forms approved by the sheriff shall be issued to each bingo player by the bingo permit holder at each session of bingo as proof of payment of the entertainment fee by the bingo permit holder.

“(3) The duplicate copy of the receipt shall be given to each bingo player by the bingo permit holder, and may be inspected on demand by any law enforcement officer.

“(4) The sequentially numbered receipts shall be continued from each bingo session to the next without interruption. Bingo permit holders shall be responsible for the payment of the entertainment fee for each and every sequentially numbered receipt.

"(5) A large sign shall be posted conspicuously in the area of the cashier stating that the entertainment fee is being paid by the bingo permit holder and that the bingo player should retain the receipt while playing bingo at that session.

"(6) The entertainment fees owed by the bingo permit holder shall be paid to the sheriff at the time of the monthly reports as required in Section 12, subsections (a) and (b) of this act.

"(7) The entertainment fees shall be applied exclusively for the enforcement of this act.

"(8) A bingo permit holder does not have to pay the entertainment fee for each bingo player provided all of the following conditions are met:

"(i) There are an average of 200 bingo players or less, at each session of bingo conducted.

"(ii) The bingo permit holder owns the building or facility in which the bingo sessions are conducted and uses it exclusively when conducting sessions of bingo.

"(iii) The bingo permit holder owns the bingo equipment needed to conduct each session of bingo.

"(iv) Each session of bingo is conducted using only volunteer workers and no paid workers.

"(9) The sheriff shall have the authority to appoint the personnel as needed to manage, regulate, or to otherwise enforce the provision of this act.

"Section 9. (a) The net proceeds of a bingo game shall be devoted to the charitable purposes of the bingo permit holder. All reasonable expenses incurred in connection with the holding, operating, or conducting of bingo, including the following bona fide expenses, in reasonable amounts, shall be allowed:

"(1) The purchase or rental of equipment necessary for conducting bingo and the payment of services reasonably necessary for repair of the equipment.

"(2) Payment of cash prizes or the purchase of prizes of merchandise.

"(3) Reasonable rental or mortgage payment on the location at which bingo is being conducted.

"(4) The money paid to bingo workers for the operation and conducting of each bingo session.

"(5) Utilities.

“(6) Janitorial services.

“(7) Security services.

“(8) The cost of a bank checking account.

“(9) The fee required for the issuance or reissuance of a bingo permit.

“(10) Insurance premiums.

“(b) All monies collected, other than referenced above, shall be paid to the charitable entity designated by the bingo permit holder.

“Section 10. (a) Bingo may not be conducted with any equipment which is not owned, being purchased, or being rented at a reasonable rate by the bingo permit holder.

“(b) Prizes given by any organization for the playing of bingo games shall not exceed \$4,000 in cash or gifts or prizes of equivalent value during any bingo session, and shall not exceed \$8,000 for any calendar week.

“(c) A bingo permit holder may not advertise bingo except with the written permission of the sheriff and then only to the extent and in the manner authorized by rule of the sheriff. If the sheriff allows a bingo permit holder to advertise bingo, the bingo permit holder shall indicate in the advertisement the purposes for which the net proceeds will be used by the bingo permit holder.

“(d) A bingo permit holder shall display its bingo permit conspicuously at the location where the bingo game is conducted. Only the permit for the bingo session being held shall be displayed. **No more than one bingo permit shall be displayed at one time.** A photo copy of the permit may be displayed.

“(e) A bingo permit holder shall conduct bingo games only at the single location specified on the permit.

“(f) A bingo permit holder shall not conduct more than two bingo sessions during any one calendar week and no session shall exceed five hours. The sessions shall be held only on the day or days specified on the bingo permit.

“(g) A bingo permit holder shall not conduct a bingo session, for any reason, between the hours of 2:00 AM and 9:00 AM, Monday through Saturday and between the hours of 2:00 AM and 12:00 PM (noon) on Sunday.

“(h) All winning paper bingo sheets shall be posted or displayed in a prominent position for inspection until the end of each bingo session.

“(i) There shall be no less than one hour between the completion of a bingo session of one organization and the commencement of another bingo session of another organization using the same bingo facilities. The facility must be emptied and cleaned between consecutive bingo sessions.

“(j) No person under the age of 19 years shall be permitted to play, unless accompanied by a parent or guardian, any game or games of bingo conducted pursuant to any bingo permit issued under this act.

“(k) No person under the age of 19 years shall be permitted to conduct or assist in the conduct of any game of bingo pursuant to any bingo permit issued under this act.

“(l) No person under the age of 16 years shall be allowed on the premises where a game of bingo is being held. The bingo permit holder is responsible to ensure that no person 16 years of age or younger is present during any session of bingo. Failure to comply with this subsection of this section can result in the revocation of the bingo permit of the bingo permit holder. Proof of age is required and may be requested by any law enforcement officer.

“(m) (1) All bingo permit holders shall have an exclusive bingo checking account in a local Mobile County bank through which all expenses relating to the conducting of any and all sessions of bingo are to be paid.

“(2) Bingo permit holders which are excluded by Section 8, subsection 8 of this act, do not have to maintain an exclusive bingo account. Allowed expenses must be covered by signed receipts or checks and a yearly report must be submitted to the sheriff by January 30 each year covering each month of the preceding 12-month period as set forth in Section 11.

“(n) No personal checks may be accepted by bingo permit holders for deposit into a bingo checking account.

“Section 11. Each bingo permit holder shall maintain the following records pertaining to each and every session of bingo:

“(1) The total number of bingo players at each bingo session as determined by the beginning and ending numbers of the entertainment fee receipts for each and every session of bingo.

“(2) An itemized list of the gross receipts for each session of bingo to include the amount of money or prizes given away for each and every game at each session of bingo.

“(3) An itemized list of all expenses including the name of each person or company to whom the expenses are paid, the check number, and a receipt or invoice for all expenses.

"(4) An itemized list of the disbursement of all profits obtained from each bingo session showing amounts, method of payment, and to whom and by whom paid.

"Section 12. (a) A copy of the records required in Section 11 of this act shall be filed with the sheriff on or before the 15th of each month and shall contain the required information for the previous month.

"(b) The records required by Section 11 of this act and this section shall be provided to the sheriff on forms as required by rule of the sheriff.

"(c) The records required to be kept by Section 11 of this act by the bingo permit holders shall be available and open to inspection by the sheriff or any law enforcement agency or their duly authorized representatives.

"(d) The records required in Section 11 of this act shall be held by the bingo permit holders for a period of one year from the date of the bingo session.

"(e) The location at which bingo is being conducted or at which any applicant or bingo permit holder intends to conduct sessions of bingo shall be open to inspection, during regular business hours or during any bingo session, to any law enforcement officer or agency.

"Section 13. (a) For good cause shown, the sheriff may revoke any bingo permit issued pursuant to this act if the bingo permit holder or any officer, director, agent, member, or employee violates this act or any rules promulgated pursuant to this act. The revocation of a bingo permit by the sheriff shall become effective immediately. The bingo permit holder then has a 10-day period from the date of the revocation to make a written request for a hearing to the Mobile County Commission or governing body. All existing rules and procedures for meetings and hearings before the Mobile County Commission or governing body shall apply to the hearing unless in direct conflict with any of the provisions of this act.

"(b) Following a full hearing and the rendering of a written decision by the Mobile County Commission or governing body, either party may appeal the decision to the circuit court of Mobile County and request a trial by jury. The rendering of a decision adverse to the bingo permit holder by the Mobile County Commission or governing body or the filing of an appeal by either the sheriff or the bingo permit holder shall result in the continued revocation of the bingo permit until a final result is obtained.

"Section 14. (a) A bingo permit holder whose bingo permit is revoked in consequence of a violation of this act or rule promulgated

under this act is ineligible to apply for a bingo permit for a period of 12 months after the date of the revocation.

“(b) A person convicted of an offense under Section 15 of this act or any other gambling offense is ineligible to serve as an officer in any organization having a bingo permit or be a bingo permit holder or to participate in conducting bingo for a period of 12 months after the conviction becomes final. If a person violates this subsection, the organization or person shall forfeit the bingo permit and is ineligible to apply for the issuance or reissuance of the bingo permit for a period of 12 months thereafter.

“(c) The bingo permit holder shall return the bingo permit to the sheriff immediately upon revocation or forfeiture. Whether returned or not, the bingo permit shall not be valid beyond the date of the revocation or forfeiture.

“(d) If the permit is revoked, after a minimum six-month period, a written request for a hearing before the sheriff may be submitted by the sponsoring organization and it shall be within the authority of the sheriff to rescind the revocation after that period of time if it is shown that the person committing the offense under Section 15 or other gambling offenses, is no longer associated with the former bingo permit holder or the sponsoring organization, group, or association.

“(e) A bingo permit holder whose bingo permit has been revoked may not apply for a new bingo permit under the name of a different organization. This deception shall result in the permanent revocation of any bingo permits and future applications for bingo permits shall be denied.

“Section 15. Any officer, director, agent, member, or employee of the bingo permit holder who violates this act shall, on first conviction, be guilty of a Class C misdemeanor. In addition, the bingo permit issued to any bingo permit holder or any officer, director, agent, or employee of any bingo permit holder convicted of a violation of this act shall, on first conviction, be revoked for a period of 12 months. Any subsequent conviction for a violation of this act shall be a Class A misdemeanor and shall result in the permanent revocation of the bingo permit.

“Section 16. The Circuit Court of Mobile County shall have jurisdiction to restrain or enjoin violations of this act.

“Section 19. (a) The total number of bingo permit holders in Mobile County, other than special permits, shall be limited to 50 during any 12-month period.

“(b) All bingo permits shall be issued for a period of 12 months and shall expire one year from the date on which they were issued.

“(c) Bingo permit holders shall be allowed to continue their bingo permit upon renewal by the sheriff. A bingo permit that is not renewed by the expiration date is considered to be surrendered.

“Section 22. Bingo permit holders shall be subject to any and all rules or regulations promulgated and set forth by rule of the sheriff under the provisions of this act.”

Section 2. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved May 19, 1993

Time: 5:57 P.M.

Act No. 93-711

H. 611 – Rep. Penry

AN ACT

To further provide for the collection in certain cases of state and local sales and use tax by the tax collector or other revenue official of a county from the purchaser of a boat prior to registration by the judge of probate or other licensing official or a county or the Department of Conservation and Natural Resources; and to provide for the distribution of revenue.

Be It Enacted by the Legislature of Alabama:

Section 1. (a) There shall be collected as provided in this act the sales or use tax levied by Chapter 23 of Title 40, Code of Alabama 1975, from every person, firm, or corporation purchasing a boat outside the state other than at wholesale and from any person purchasing a boat within the state when sales tax is not collected by the seller if the boat is required to be registered or licensed with the judge of probate or other licensing official of a county or the Department of Conservation and Natural Resources for use, storage, or other consumption within this state.

(b) In addition to any state sales or use tax, there shall be collected on the boat any applicable municipal and county sales or use tax authorized by general or local law for the local taxing jurisdiction in which the purchaser resides or the business location of the boat purchased from outside of the state or from a licensed dealer in the state when the municipal and county sales tax was not collected.

Section 2. The tax collector or other revenue official of a county shall collect the use tax or sales tax where applicable prior

to the registration of a boat. The tax collector or other revenue official of a county shall require, as proof of the purchase price of a boat, documentation of the price on which any state, county, or municipal sales tax was paid and any other evidence of the purchase price as shall be prescribed by the Revenue Department. A licensed dealer in this state shall furnish the purchaser of a boat documentation showing the amount and rate of any sales or gross receipts tax collected at the time of purchase, including any tax collected for the municipality or county where the sale was made.

Section 3. (a) The tax collector or other revenue official of a county shall require from the purchaser of a boat as proof of the purchase price of any boat a sworn statement of the purchase price on a form to be provided by the Department of Revenue which shall be accompanied by a bill of sales or other evidence prescribed by the Department of Revenue.

(b) In lieu of the requirements contained in subsection (a) of this section, the purchaser may stipulate to the tax collector or other revenue official of a county, the purchase price of a boat based on standard values for boats established by the Department of Revenue or the fair market value of a boat may be established by the Department of Revenue by any reasonable method.

Section 4. Before registration and licensing of any boat, the judge of probate or other licensing official in a county or the Department of Conservation and Natural Resources shall require proof of payment of all state and local sales and use tax.

Section 5. Any law to the contrary notwithstanding, the tax collector or other revenue official of a county shall remit all state and local sales and use tax collected pursuant to this act to the appropriate taxing authority not later than the 20th day of the next month following collection. The Department of Revenue may provide for the deduction of an administrative fee not to exceed two percent of collections by the tax collector or other revenue official of a county for the collection of all taxes collected pursuant to this act.

Section 6. Any revenue collected for state sales and use tax pursuant to this act shall be distributed fifty percent to the State General Fund and fifty percent to the Special Educational Trust Fund.

Section 7. The Department of Revenue may make any rules and regulations necessary to carry out this act.

Section 8. The provisions of this act are supplemental and shall not be construed to repeal any law not in direct conflict. Any law that directly conflicts with this act is repealed.

Section 9. The provisions of this act are severable. If any part of this act is declared invalid or unconstitutional, that declaration shall not affect the part which remains.

Section 10. The provisions of this act shall become effective October 1, 1993.

Approved May 19, 1993

Time: 6:00 P.M.

Act No. 93-712

H. 969 – Rep. Harvey

AN ACT

Relating to Blount County; to provide for the formation of fire and emergency medical services districts; to provide for the powers, duties, and authority of the district; to provide for annual dues; to provide for a board of trustees; and to provide for referendum elections.

Be It Enacted by the Legislature of Alabama:

Section 1. This act shall apply only in Blount County.

Section 2. A district for the delivery of fire and emergency medical services may be formed in any unincorporated area of the county pursuant to this act subject to the approval of a majority of the qualified electors who vote at a referendum election for that purpose in the proposed district and for the approval of the mandatory annual dues of the district.

Section 3. In order to call for a referendum election for the formation of a district, a petition signed by not less than 20 percent of the registered voters who reside in the proposed district shall be presented to the county commission and the Judge of Probate of Blount County. The petition shall contain an accurate legal description of the proposed area and shall state the name of the proposed district. The petition for the establishment of a district shall be accompanied by a request for the establishment of mandatory annual dues for the district. The petition and the legal description of the proposed district shall be recorded in the office of the judge of probate.

Section 4. Upon the receipt of a petition meeting the requirements of this act, the judge of probate of a county shall order an election on the formation of the district for the delivery of fire and emergency medical services. The referendum election shall be held in conjunction with the next regularly scheduled county election at least thirty days after the receipt of a petition or the judge of probate may call for a special election in a proposed district in which case the district or proposed district shall be responsible for the costs of the election.

Section 5. In the event mandatory annual dues are approved pursuant to this act, the dues shall become effective on the first day of the next month following approval and shall be paid within one year following approval.

Section 6. Mandatory annual dues for a district may not be increased for a period of six years after the approval of mandatory annual dues. Any increase in the amount of mandatory annual dues shall not be effective until after the approval at a referendum election held for that purpose in the same manner as the approval of the formation of a district. The amount of any increase submitted shall be approved by the board of trustees of the district.

Section 7. After the formation of a district pursuant to this act, additional land or territory that is contiguous to the district may be added to the district by petition of the land owner or all land owners to the board of trustees of the district and approval by the board. Upon approval, there shall be a 90-day waiting period before the addition is final. Mandatory annual dues for the land or territory for the year shall be due and payable at the end of the 90-day period after approval.

Section 8. Each district formed pursuant to this act shall be governed by a local board of trustees consisting of five members appointed by the Blount County Commission. The initial members shall be appointed from a list of seven persons provided by the organization providing services in the district.

Section 9. The initial members of the board of trustees of a district shall be appointed by the county commission so that the terms of the board shall be staggered as follows: one member shall be appointed for a one-year term, one for a two-year term, one for a three-year term, one for a four-year term, and one for a five-year term. When the terms of any member of the initial board expires, the county commission shall appoint one member to fill the position from a list of three members provided by the organization providing services in the district. Members of the board of trustees of a district, after the initial members shall serve for a term of five years. Members of the board shall be limited to two full five-year terms. Members of the board shall serve until a successor is appointed. The members of the board shall elect one member to serve as chair of the board on an annual basis. In the event a position of the board becomes vacant, the remaining board members shall elect a replacement to serve for the unexpired term of the member whose position is vacant.

Section 10. (a) The board of trustees for the district formed under this act shall have the following powers and duties: to mail annual billing notices; to collect mandatory annual dues; to charge up to 10 percent of annual dues as late fees; to add attorney's fees, if

applicable, to the amount due; to place liens on property for nonpayment of dues; to budget and borrow monies for the district; to spend monies given to or borrowed by the district, or generated from mandatory annual dues collected under this act, for, but not limited to, fire suppression, fire prevention, fire education, fire inspection, fire investigation, fire or emergency medical services training, supplies directly related to the operation of the fire service or emergency medical services; to provide fire stations, capital improvements, fire or emergency medical services equipment, insurance on fire or emergency medical services-related activities; to pay professional licenses, fees, subscriptions, dues and salaries; to employ or relieve the fire chief, and determine whether the fire chief or the personnel of the district are compensated or noncompensated employees of the district; and to make policies governing the district.

(b) The members of the board shall serve without compensation, but may be reimbursed for reasonable expenses in the performance of their duties.

Section 11. The board of trustees shall appoint the fire chief of the district with full authority over employing the district's personnel, whether compensated or noncompensated. The fire chief shall have the authority to make rules governing the operation of the district; to be the fire marshal of the district or to appoint a fire marshal for the district; and to prepare a budget for the operation of the district including a budget for new fire and emergency medical service equipment.

Section 12. The board of trustees may consider any local individual benevolent request that is related to the waiver or partial waiver of the district's mandatory annual dues. Each benevolent request application shall be reviewed on an annual basis by the board of trustees.

Section 13. The district formed under this act shall constitute a nonprofit public corporation, which shall have the power to do any and all acts or things necessary and convenient for carrying out the purposes for which it is created including, but not limited to, the following:

(1) To have a seal and alter the same at pleasure.

(2) To acquire, hold, and dispose of property, real and personal, tangible and intangible, or interests therein and pay therefor in cash or on credit, and to secure and procure payment for all or any part of the purchase price thereof on such terms and conditions as the board shall determine.

(3) To negotiate and enter into contracts with residents, businesses, or churches of areas outside the district, but in Blount County or with other districts to furnish fire or emergency medical protection, or both, and to charge fees for the service.

(4) To employ agents, servants, and attorneys.

(5) To perform any and all of the foregoing acts and to do any and all of the foregoing things under, through or by means of its own officers, agents, and employees, or by contracts with any federal, state, county, or municipal agency.

Section 14. A district shall be exempt from all taxes levied by any county, municipality, or other political subdivision of the state, including, but not limited to, license, utility, and excise taxes imposed in respect of the privilege of engaging in any of the activities of the district. The district shall be exempt from any fees, taxes, or costs relating to its incorporation, the amendment of its certificate of incorporation, or the recording of any document in the office of the judge of probate of the county.

Section 15. A district formed under this act shall provide at least basic emergency medical services, and if possible, advanced life support medical rescue.

Section 16. The board of trustees of the district shall publish in the local newspaper a statement of income and expenditures 45 days after the end of the district's fiscal year. The first board shall designate the fiscal year of the newly formed district. All funds generated pursuant to this act are public in nature and the records of the district shall be open for public view upon request during normal business hours.

Section 17. A district formed pursuant to this act may contract with a municipality in the county to provide fire protection or emergency medical services to the municipality.

Section 18. If any portion of a district formed under this act becomes incorporated as a town or city or is annexed into a town or city, the residents, businesses, and churches of the incorporated area shall be considered thereafter in the town or city rather than the district, but shall continue to be liable for the mandatory annual dues of the district for four years.

Section 19. The board of trustees and any persons providing any fire or emergency medical services in the district shall not be considered to be employees, servants, or agents of the county or the county commission. The county, county commission, or any employee of the county shall not be liable in any capacity for the actions of the board of trustees or any personnel performing any function of the district.

Section 20. (a) The following statement shall appear on the ballot for any referendum election for the formation of a district and the amount of mandatory annual dues:

“Do you favor the formation of a district to be known as the
 _____ Fire and Emergency Medical Services

District and the collection of mandatory annual dues of _____ to be assessed annually on each residence, business, and church in the boundaries of the district? Yes ____ No ____."

(b) The following statement shall appear on the ballot for any referendum election for the amount of mandatory annual dues of a district:

"Do you favor mandatory annual dues in the _____ Fire and Emergency Medical Services District in the amount of _____? Yes ____ No ____."

Section 21. If a majority of the votes at a referendum election are affirmative, a district may be formed pursuant to this act and mandatory annual dues may be collected in the amount approved. If a majority of the votes cast at a referendum election are negative, another election of the formation of a district in the same area or setting the amount of mandatory annual dues shall not be held for at least two years.

Section 22. Except as otherwise provided in this act, the mandatory annual dues authorized to be collected pursuant to this act shall be assessed on each residence, business, or church in the district. Any dues that are delinquent shall constitute a lien on the property and may be recorded in the office of the judge of probate of the county.

Section 23. The provisions of this act are severable. If any part of this act is declared invalid or unconstitutional, that declaration shall not affect the part which remains.

Section 24. The provisions of this act are supplemental and shall not be construed to repeal any law not in conflict with this act. The county commission of Blount County shall retain the right to set district lines except as provided in this act.

Section 25. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved May 19, 1993

Time: 6:01 P.M.

Act No. 93-713

S. 463 – Senator B. Smith

AN ACT

Regulating the use of explosives; to create the "Alabama Explosives Safety Act of 1993"; to require that the commercial users of explosives be required to obtain a blasting license, and a local explosives use permit from the appropriate municipal issuing authority; to require certain persons to be certified as blasters; to provide a licensure procedure by the State Fire Marshal's Office; to require that certain

records be maintained on blasting operations; to provide for the payment and expenditures of fees, civil penalties, grants, and appropriations collected and expended pursuant to this act, to provide that unexpended funds credited to the State Fire Marshal's Fund shall not revert to the General Fund to the State Treasury; to make certain exemptions; to provide for penalties for violations; to authorize administrative and civil remedies for violations; to establish standards relating to seismograph measurements; to provide for the issuance, refusal, suspension, revocation, or renewal of a blasting license, permit, or a certification for blasting under certain conditions; and to provide for certain emergency variations from the general provisions of this act.

Be It Enacted by the Legislature of Alabama:

Section 1. This act shall be known and may be cited as the "Alabama Explosives Safety Act of 1993."

Section 2. The following words and phrases used in this act shall have the following meanings:

(1) ACT. Alabama Explosives Safety Act of 1993.

(2) BLAST. The firing or detonating of explosives.

(3) BLASTER. A person qualified by reason of training, knowledge, and experience to design, supervise, or detonate explosives in blasting operations, who has obtained a valid blaster certification card issued by the office.

(4) BLASTING CONTRACTOR. A person employed, hired, or contracted by a client or other person to plan, organize, supervise, and conduct blasting operations.

(5) BLASTING OPERATION. The use of explosives in the blasting of stone, rock, or any other natural formation, or in any construction, quarry work, or demolition of man-made structures.

(6) BLASTING PRIVILEGES. Blasting certification, blasting contractor licensing, and blasting permits.

(7) EXPLOSIVES. Any chemical compound or other substance or mechanical system intended for the purpose of producing an explosion, or that contains oxidizing and combustible units, or other ingredients, in such proportions or quantities that ignition by detonation may produce an explosion, capable of causing injury to persons or damage to property.

(8) ISSUING AUTHORITY. A municipality or other governmental entity authorized to issue permits and conduct the duties provided by this act.

(9) LICENSE. An authorization issued pursuant to Section 8 that identifies persons eligible to do business as a blasting contractor or a quarry operator where explosives will be involved in blasting operations.

(10) OFFICE. The State Fire Marshal's Office.

(11) **PERMIT.** A municipal explosives use permit.

(12) **SEISMOGRAPH.** An instrument designed to measure and record the surface vibrations produced by blasting in three mutually perpendicular (transverse, vertical, and longitudinal) directions. The instrument may also have the capability of measuring and recording air blast over-pressure produced by blasting.

Section 3. (a) In addition to any other legal powers, the State Fire Marshal may adopt, amend, suspend, repeal, and enforce reasonably necessary rules and regulations governing the use of explosives in the blasting of stone, rock, or any other natural formation, or in any construction, quarry work, or demolition of man-made structures. The rules and regulations adopted shall not be more stringent than those promulgated by federal law, rule, or regulation to control surface coal mining operations. The rules and regulations may apply to the state as a whole or may vary from area to area in order to take into account varying local conditions.

(b) The authority granted to the State Fire Marshal shall not extend to surface coal mining operations, which shall continue to be regulated by the Alabama Surface Mining Commission, pursuant to the Alabama Surface Mining Control and Reclamation Act [Chapter 16 (commencing with Section 9-16-2) of Title 9 of the Code of Alabama 1975].

(c) The office may issue reasonable orders as necessary to implement the purposes of this act and to enforce this act through appropriate administrative and judicial proceedings.

(d) The office may employ personnel and consultants, purchase equipment and supplies, and lease or otherwise acquire property as may be reasonably necessary to perform its duties under this act.

Section 4. (a) Every person engaged in any use of explosives regulated by this act shall apply for and obtain certification from the office prior to using any explosives. No person shall detonate explosive materials or supervise the conduct of blasting operations unless that person has obtained certification from the office.

(b) The following persons are eligible for certification:

(1) Any person who is 21 years of age or older, with not less than two years experience as a blaster in this state, may be certified without examination up to one year from the effective date of this act. The applicant shall furnish proof of experience satisfactory to the office.

(2) Any person engaged in any use of explosives regulated by this act on its effective date shall have one year after the effective date to obtain a blaster certification required under this act.

(3) After this act has been in effect for one year, any person who is 21 years of age or older with two or more years of experience as a blaster may be certified only by passing a written comprehensive examination given by the office relating to the use of explosives.

(4) Certifications may be granted by the office to any person holding a certification from another state, provided that the requirements for a certification in that state are equivalent to, or more stringent than, those of the State of Alabama, as determined by the State Fire Marshal.

(c) No person may detonate explosive materials or supervise the conduct of a blasting operation unless that person has obtained certification card from the office.

(d) Each person certified shall pay a fifty dollar (\$50) fee to the office.

(e) Certification shall expire one year following the date of its issuance, or renewal, and shall become invalid unless renewed by payment of the certification fee.

Section 5. (a) A person may be refused certification, a duly issued blaster certification may be suspended or revoked, or the renewal of certification may be refused by the office if it finds that the applicant for, or the holder of, the certification:

(1) Has violated this act or any other state or federal law relating to explosives, or has violated any regulation duly promulgated by the office.

(2) Has misrepresented or concealed any material fact in the application for a certificate, or identification card, or any document filed in support of those documents.

(3) Has permitted any employee of the person, either by direct instruction or by reasonable implication, to violate this act.

(4) Has been convicted by final judgment in any state or federal court of a felony.

(5) Has been terminated from employment due to possessing or being under the influence of intoxicants, or possessing or using illegal drugs.

(6) Has used explosives in an unsafe manner.

(b) Prior to the office refusing, suspending, revoking, or failing to renew a blaster certification card, the office shall notify the applicant or holder of a blaster certification card of the specific reason or reasons for the intended action. The applicant or holder of a blaster certification card shall have 10 days after receipt of the notice to respond to the office notice of proposed action by filing a

written notification to the office and requesting a hearing before the office pursuant to the rules of the office.

(c) The office shall have 10 days after its receipt of the applicant's or the holder's response to either take the proposed action or issue the blaster certification card and notify the blaster of the decision. If the blaster disagrees with the action taken by the office, a hearing for the purpose of reconsidering the matter shall be set within 30 days of the action of the office.

Section 6. In the event a blaster certification card is revoked, suspended, or the original application for certification is denied, the office may reissue a blaster certification card provided that all requirements of this act have been met.

Section 7. (a) A record of each blast shall be kept in accordance with rules and regulations promulgated by the office.

(b) It is unlawful for any person to make any false entry in any record required to be kept by this section.

Section 8. (a) Unless otherwise exempted by this act, no person shall engage in blasting or other use of explosives for commercial purposes, without first obtaining a blasting contractor license. Any person desiring to be licensed or desiring a renewal of an existing license as a blasting contractor in this state shall make and file with the office a written application on a form prescribed by the office. The office shall have 30 days to investigate and review the application, and either issue or deny a license. A denial shall state the reasons why the license was not issued and what corrective action, if any, may be taken.

(b) The license shall expire one year following the date of its issuance or renewal and shall become invalid, unless renewed by payment of the license fee.

(c) A fee of one thousand dollars (\$1,000) shall be paid to the office by any person issued a license under this section.

(d) No person with a blaster certification card may conduct any blasting operations which require certification and licensure under this act unless the person has, or is employed by an employer who has a blasting contractor license.

Section 9. (a) No person, unless otherwise exempted by this act, shall engage in blasting or other use of explosives for commercial purposes without first obtaining a municipal explosives use permit from the appropriate local issuing authority. The appropriate local issuing authority for the municipal explosives use permit shall be the municipality within police jurisdiction of which the proposed blasting would take place. Copies of all permits shall be forwarded to the office.

(b) The issuing authority shall issue permits in accordance with this act and the rules and regulations promulgated by the office.

(c) Terms of the permit shall be effective for one year or at the termination of the commercial purpose, whichever occurs first, with the right of successive renewal upon expiration of the terms of the permit unless the permit has been suspended or revoked.

(d) The issuing authority shall collect a municipal explosives use permit fee of twenty-five dollars (\$25) to be paid by each applicant to cover the expense of the municipality for processing and issuing the municipal explosives use permit.

(e) No municipal explosives use permit shall be issued unless the applicant has liability insurance with a company licensed to do business as an insurer in this state in an amount not less than five hundred thousand dollars (\$500,000) with identical limits for explosion, collapse, and underground coverage to protect the public against property damage and personal injury. This insurance shall be continued in effect during the period of the permit.

Section 10. (a) The office may suspend or revoke the certification or license of any person issued under this act who is found guilty of any fraud or deceit in obtaining a certification or license, or gross negligence, incompetence, or gross misconduct in the conduct of blasting activities. The office may file charges of fraud, deceit, negligence, incompetence, or misconduct against any licensed person or firm. The charges shall be made in writing and the charged party shall have at least 10 days notice of the date of a formal hearing. A time and place for the hearing shall be fixed by the office, and a copy of the charges, along with the notice of time and place of hearing, shall be legally served on the person at least 10 days prior to the date of the hearing. At the hearing, the accused shall have the right to produce evidence or witnesses in his or her defense. If, after the hearing, the State Fire Marshal finds the person in violation, the office shall suspend or revoke the certification or license. The accused shall have a right to appeal the hearing to the circuit court of the county of residence of the person pursuant to the laws of civil procedure.

(b) The office may reissue a license to any person whose license has been suspended or revoked, provided the person complies with this act, and the rules and regulations promulgated by the office.

(c) The issuing authority, upon a final and binding decision of the State Fire Marshal, may reissue certification to any person whose certification has been suspended or revoked, provided the person complies with this act and the rules and regulations promulgated by the office.

Section 11. (a) The office may approve variations from the requirements of this act where it finds, as the result of a written request, that an emergency exists and that the proposed variations:

- (1) Are reasonable and necessary.
- (2) Will not hinder the effective administration of the act.
- (3) Will not be contrary to any other applicable state or federal law.
- (4) Will not cause injury to any person or damage to public or private property.
- (5) Are ordered by a circuit or district court judge after a hearing upon the record of the finding of the office.

(b) The office shall establish a fee not to exceed fifty dollars (\$50) to be paid by each applicant requesting a variation.

Section 12. This act is intended to and shall preempt and supersede all county, town, city, or municipal ordinances or regulations enacted after January 1, 1993, or which may be enacted in the future with respect to the subjects covered by this act. Any municipal ordinance regulating blasting or other use of explosives which was in effect on January 1, 1993, shall continue in effect. Any municipality with a more stringent ordinance or resolution relating to the use of explosives or on blasting activities in effect on January 1, 1993 is exempt from this act.

Section 13. (a) Whenever the office or local issuing authority has reason to believe that any person has engaged in, or is engaging in, or is about to engage in, any practice or activity that is prohibited by this act, the office or issuing authority shall conduct an inspection of the blasting operations and may order the permittee to monitor blast effects, with seismographic readings, unless the same information is available to the office or issuing authority as a result of a previous inspection.

(b) When, on the basis of an inspection by the office or issuing authority or seismic monitoring, it is determined by the office or issuing authority that any person is in violation of any requirements of this act, and the violation creates an imminent danger to the health, or safety of the public, or private property, the local issuing authority shall immediately notify the office of the violation. The office may immediately order a cessation of the blasting operation. The order shall remain in effect until the office determines that the condition, practice, or violation has been abated.

(c) When it is determined by the office that any person is in violation of any requirement of this act, and the violations can be reasonably expected to create a danger to the health or safety of the

public or private property, the office may issue a citation to the person in violation. If, upon expiration of the period of time as originally fixed in the citation, the abatement of the violation has not been accomplished, the office may order a cessation of the blasting operation. Those orders shall remain in effect until modified, vacated, or terminated by the office or a competent court of law.

(d) Citations and orders issued under this section shall set forth with specific explanation the nature of the violation and the corrective action required. The citation or order shall be served or delivered promptly to the person in violation of this act.

(e) The office may institute a civil action for relief including a permanent or temporary injunction, restraining order, or any other appropriate relief in the circuit court for the county in which the blasting operation is located, whenever that person:

(1) Violates, fails, or refuses to comply with any reasonable order issued by the office under this act.

(2) Interferes with, hinders, or delays the office in carrying out this act.

(3) Refuses to permit entry to or inspection of the blasting operation by an authorized representative of the office.

(4) Refuses to furnish pertinent information required by the office under this act that is deemed necessary to implement this act. The court shall have jurisdiction to provide relief as may be appropriate.

Section 14. Any person found guilty of violating this act, or any reasonable rule or regulation promulgated by the State Fire Marshal pursuant to this act, is subject to a penalty of up to five hundred dollars (\$500) for each violation.

Section 15. (a) Nothing contained in this act shall apply to:

(1) Personnel of regular law enforcement agencies, military, or naval forces of the United States, or to the duly organized military force within the state, so long as these persons are acting within their respective official capacities and in the performance of official duties.

(2) The possession and storage of black powder, percussion caps, safety and pyrotechnic fuses, matches and friction primers, intended to be used solely for sporting, recreational, or cultural purposes in antique firearms, or antique devices as defined in Section 921(a)(16) of Title 18 of the United States Code.

(3) The possession and storage of smokeless powder, primers used for reloading rifles, or pistol cartridges, shot shells, percussion caps, and smokeless propellants intended for personal use.

- (4) Coal mining.
- (5) Public utilities.
- (6) Railroads.
- (7) The use of explosives for occasional personal agricultural blasting or other noncommercial use of explosives.
- (8) The use of explosives for blasting tree stumps for forest products production.
- (9) The use of explosives for oil and gas exploration purposes.
- (10) The occasional use of explosives in highway construction or maintenance.
- (11) Persons engaged in the homebuilding industry, the home remodeling industry, or the plumbing industry, or any combination of these industries.

Section 16. (a) All sums received through the payment of fees, the recovery of civil penalties, grants, and appropriations by the Legislature shall be deposited in the State Treasury and credited to the State Fire Marshal's Fund. This fund shall be available to the State Fire Marshal for expenditure in the administration and enforcement of the act, training, and research programs. Provided, however, that no funds shall be withdrawn or expended except as budgeted and allocated according to Sections 41-4-80 to 41-4-96 and Sections 41-19-1 to 41-19-12, inclusive, Code of Alabama 1975, and only in amounts as stipulated in the general appropriations bills or other appropriations bills. Any unencumbered and any unexpended balance of this fund remaining at the end of any fiscal year shall not lapse or revert to the General Fund, but shall be carried forward for the purposes of this act until expended.

Section 17. In determining compliance with this act, the authorized representatives of the State Fire Marshal or issuing authority shall have the right of entry to, upon, and through any premises, or the site of any permitted or unpermitted commercial blasting operation without advance notice. Upon entry, the person or persons shall immediately notify the blaster in charge at the blasting operation of his or her presence so that appropriate safety instructions, if any, may be communicated, so that persons may comply with all applicable federal and state safety regulations pertaining to persons in or about a blasting operation.

Section 18. This act shall become effective October 1, 1993, after its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved May 20, 1993

Time: 5:15 P.M.

Act No. 93-714

H. 32 – Rep. Parker (P)

AN ACT

To amend Sections 16-8-25 and 16-12-21, Code of Alabama 1975, pertaining to vacations and leaves of absence, so to further allow local boards of education greater flexibility in the development of local board policies.

Be It Enacted by the Legislature of Alabama:

Section 1. Section 16-8-25, Code of Alabama, 1975, is hereby amended to read as follows:

“Section 16-8-25.

“The county board of education shall have the authority, under such rules and regulations as may be promulgated from time to time by the state board of education, to provide for leaves of absence and vacations by the employees of the boards and for the payment from public funds to the employees of the boards for leaves of absence and/or vacations. The boards may provide leaves of absence during the times the schools are not in session for such teachers and employees on full pay when such teacher or employee devotes such leave of absence to instructing in or attending schools for teacher training or in such manner as approved by the state board of education as beneficial to the educational work of the county; and to provide for the payment of any full-time teachers for absences during the time schools are in session where such absence results from sickness or some other unavoidable cause which prevents such teacher from discharging his duties; provided, that any teacher not utilizing or being paid for the sick leave accrued in any one year pursuant to regulations of the state department of education may accumulate days at the rate of one day per month for the months employed and carry over the unutilized days to the next consecutive year or years of employment for the same school system, or for any other school system in which such educator may later be employed, until he shall accumulate a maximum of 180 days. Pay for such absences resulting from unavoidable causes other than sickness shall not be allowed for a longer time than one week during any one year. The allowance of any such pay shall at all times be in the discretion of the county board of education.”

Section 2. Section 16-12-21, Code of Alabama, 1975, is hereby amended to read as follows:

“Section 16-12-21.

“The city board of education shall have the authority, under such rules and regulations as may be promulgated from time to time by the state board of education, to provide for leaves of absence and vacations by the employees of the boards and for the payment from

public funds to the employees of the boards for leaves of absence and/or vacations. The boards may provide leaves of absence during the times the schools are not in session for such teachers and employees on full pay when such teacher or employee devotes such leave of absence to instructing in or attending schools for teacher training or in such manner as approved by the state board of education as beneficial to the education work of the city; and to provide for the payment of any full-time teachers for absences during the time schools are in session where such absence results from sickness or some other unavoidable cause which prevents such teacher from discharging his duties; provided, that any teacher not utilizing or being paid for the sick leave accrued in any one year pursuant to regulations of the state department of education may accumulate days at the rate of one day per month for the months employed and carry over the unutilized days to the next consecutive year or years of employment for the same school system, or in any other school system in which such educator may later be employed, until he shall accumulate a maximum of 180 days. Pay for such absences resulting from unavoidable causes other than sickness shall not be allowed for a longer time than one week during any one year. The allowance of any such pay shall at all times be in the discretion of the city board of education."

Section 3. All laws or parts of laws which conflict with this Act are hereby repealed.

Section 4. Provisions of this Act are severable. If any part of the Act is declared invalid or unconstitutional, such declaration shall not affect the part which remains.

Section 5. This Act shall become effective immediately upon its passage and approval by the Governor or upon its otherwise becoming a law.

Approved May 20, 1993

Time: 5:16 P.M.

Act No. 93-715

H. 128 – Rep. Drake

AN ACT

Relating to the Employees' Retirement System; allowing a vested member of any component system or fund of the retirement system to purchase up to a certain amount of certain prior service credit and providing for payment for the prior service credit.

Be It Enacted by the Legislature of Alabama:

Section 1. (a) Any vested member of any component system or fund of the Employees' Retirement System may claim and purchase up to three years credit in his or her system or fund for up to three years of prior service which he or she rendered to any county government as a county solicitor.

(b) Any vested member eligible to claim and purchase credit for prior service as a county solicitor under subsection (a), shall be awarded credit under the appropriate system or fund provided he or she pays into his or her respective retirement system or fund prior to the member's date of retirement, a sum of money equal to a percentage of the member's highest annual compensation or final average salary during the period of prior service, whichever is higher; the applicable percentage of the highest annual compensation or the final average salary, whichever is higher, shall be the sum of the prevailing percentage rates of employer and member contributions as required by the most recent actuarial valuation for each year of service purchased, not to exceed three years.

Section 2. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved May 20, 1993

Time: 5:17 P.M.

Act No. 93-716

H. 178 – Reps. Carter, Parker (P)

AN ACT

To amend Section 16-61-1, Code of Alabama 1975, to include Athens State College within the universities that may participate in the Alabama Endowment Trust Fund for Eminent Scholars program.

Be It Enacted by the Legislature of Alabama:

Section 1. Section 16-61-1, Code of Alabama 1975, is amended to read as follows:

“§16-61-1.

“The legislature recognizes that the following public universities in Alabama which grant baccalaureate degrees and are independently accredited by the Southern Association of Colleges and Schools — the University of Alabama in Huntsville, the University of Alabama in Birmingham, The University of Alabama, Auburn University, Auburn University at Montgomery, Jacksonville State University, Troy State University, Troy State University in

Montgomery, Troy State University in Dothan, the University of North Alabama, the University of South Alabama, Livingston University, the University of Montevallo, Alabama State University, Athens State College, and Alabama A & M University — would be greatly strengthened by the addition of distinguished scholars serving as resident faculty members.

“It further recognizes that support from sources other than state appropriations, student fees, federal funds, research grants, and any interest earned thereon will help strengthen the commitment of citizens and organizations in promoting excellence in these state universities. It is therefore the intent of the legislature to establish a trust fund to provide the opportunity to each of these institutions to receive grants from the trust fund to create endowments for selected eminent scholars to occupy chairs within the university’s faculty.”

Section 2. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved May 20, 1993

Time: 5:18 P.M.

Act No. 93-717

H. 122 – Reps. Rockhold, Zoghby,
Kvalheim, Gaston

AN ACT

To amend Section 40-10-127 of the Code of Alabama 1975, to allow additional county officers to issue the certificate of redemption for lands sold for taxes; and would remove the requirement that the county treasurer countersign the certificate of redemption for land sold for taxes.

Be It Enacted by the Legislature of Alabama:

Section 1. Section 40-10-127 of the Code of Alabama 1975, is amended to read as follows:

“§40-10-127.

“Upon the payment of the amount required by law for the redemption of the lands sold for taxes by a person entitled to redeem, the judge of probate, or official who performs the same function, shall issue that person a certificate of redemption describing the lands, setting forth the facts of the sale substantially as contained in the certificate of purchase, the date of

redemption, the amount paid, by whom the lands were redeemed, and make the proper entries in the book of sales in his or her office and immediately give notice of the redemption to the county treasurer or custodian of the county funds. The judge of probate, or official who performs the same functions, shall sign the certificate. Unless signed, no certificate shall be held as evidence of redemption, and it shall be the duty of the judge of probate, or official who performs the same functions, to keep a book of certificates of redemption, and every blank shall have a stub attached thereto, on which shall be printed the matter as the land commissioner may prescribe, with appropriate blank spaces to be filled by the judge of probate, or official who performs the same functions, upon the issuance of any certificates of redemption. The land commissioner shall take and file in his or her office a proper receipt from the judge of probate, or official who performs the same functions, for the certificates of redemption furnished him or her. If the lands were bid in by the state, the person redeeming shall present to the land commissioner the certificates of redemption, and the land commissioner shall give to the person a certificate releasing all claims to the land acquired by the state at the tax sale."

Section 2. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved May 20, 1993

Time: 5:19 P.M.

Act No. 93-718

H. 168 – Reps. Johnson, Carothers

AN ACT

To require a permit for the operation of a milk, milk products, or frozen dessert producing plant; to require a fee of \$250; to define certain terms; to provide for the inspection of plants, and the issuance of and suspension or revocation of permits; to provide for appeals from same; to provide for criminal and civil penalties for violation of this act or rules or orders of the State Board of Health; to continuously appropriate all funds to the State Board of Health; and to provide for the issuance of rules and orders.

Be It Enacted by the Legislature of Alabama:

Section 1. For the purposes of this act, the following words shall have the following meanings unless the context clearly indicates otherwise.

(1) MILK, MILK PRODUCTS, AND FROZEN DESSERT PROCESSING PLANT. A plant or facility, place, premises, or

establishment where milk, milk products, or frozen desserts are collected, handled, processed, stored, pasteurized, aseptically processed, bottled, or prepared for distribution. The term includes single-service container manufacturing plants. This term excludes manufacturers who produce cheese exclusively.

(2) **PERSON.** A natural person, firm, partnership, or corporate entity.

(3) **SINGLE-SERVICE CONTAINER MANUFACTURING PLANT.** A establishment for the fabrication, production, handling, and storage of single-service containers and closures intended to be used for Grade "A" milk or milk products.

Section 2. Every person who produces milk, milk products, or frozen deserts for sale or consignment or for remuneration of any nature, in a milk, milk products, or frozen dessert processing plant shall annually obtain a permit from the State Board of Health prior to selling or offering for sale, consigning or offering for consignment, or offering for a remuneration, the milk, milk products, or frozen dessert in the State of Alabama. This requirement applies to a person who operates a milk, milk products, or frozen dessert processing plant within or without the state.

(1) Application shall be made to the State Board of Health each year for a permit on the forms requiring information to be submitted and at the times required by the board.

(2) Each application shall be accompanied by an application fee of two hundred fifty dollars (\$250) for each plant for which a permit is requested and the fee shall be non-refundable and shall not be prorated.

(3) In applying for a permit, the owner or operator of each plant ~~consents to reasonable inspection of the plant by the board at the times designated by the board to determine compliance with rules for permit issuance or to determine continued compliance after issuance.~~

Section 3. The State Board of Health shall receive and review each completed application for a permit and shall annually or more often, if required, inspect each plant whether in-state or out-of-state. The board shall issue a permit for each plant requested if the application is complete, the fee is tendered, and the plant is in compliance with reasonable rules of the board.

(1) Permits shall be state-wide in application.

(2) Permits shall be non-transferable. Whenever there is a change of ownership of a plant, a new permit is required.

Section 4. The State Board of Health may deny issuance of renewal of, or it may suspend or revoke a permit issued for

flagrant, serious, or continued violations of rules or public health laws. Administrative appeals shall be made in a timely manner to the State Board of Health in accordance with rules of the board.

(1) Appeals from final rulings shall be made on the administrative record to the circuit court of the county in which the plant is located, if within the State of Alabama, or to the circuit court of Montgomery County.

(2) When, in the judgment of the state health officer, the operation of a permitted plant poses an immediate and serious danger, threat, or menace to the public health, the state health officer shall summarily suspend the permit issued hereunder and order the plant closed prior to an administrative hearing. Administrative hearings on the summary suspensions shall be held as soon as practicable unless waived by the permittee and shall be appealable as provided in subdivision (1).

(3) When the state health officer has summarily suspended a permit, the state health officer shall order the summary destruction of contaminated milk, milk products, or frozen desserts, and in so ordering incurs no liability for the costs of the milk, milk products, or frozen desserts or for costs of the destruction thereof on his or her own behalf or on the behalf of the State of Alabama or an agency or officer, agent, servant, or employee thereof.

Section 5. (a) A person who produces milk, milk products, or frozen dessert in a producing plant and sells or offers for sale, consigns or offer for consignment, or offers for remuneration of milk, milk products, frozen desserts, or single-service container or closure without first obtaining the required permit or violates a rule or order issued pursuant to this act shall be guilty of a Class A misdemeanor.

(b) The State Board of Health shall institute a civil action in any circuit court in the State of Alabama to enforce the provisions of this act. Any person who operates without a valid permit may be enjoined from the operation by the circuit court without prior resort to criminal remedies.

Section 6. All fees, fines, penalties, or funds of whatsoever nature collected by the State Board of Health under this act are continuously appropriated to the State Board of Health for the enforcement of this act.

Section 7. The State Board of Health shall adopt rules and orders as are necessary for implementing the provisions of this act. Where possible, the rules shall be in conformity with rules, regulations, ordinances, or standards of agencies of the government of the United States. All rules and orders shall have the force and

effect of law and shall be enforced by all officers and be complied with by all persons.

Section 8. The act is supplemental to all existing legislation and is not to be construed to repeal any other act or portion of act.

Section 9. This act shall take effect immediately upon its passage and signing by the Governor or its otherwise becoming a law except that permits required herein shall not be required until October 1, 1993.

Approved May 20, 1993

Time: 5:52 P.M.

Act No. 93-719

H. 4 – Rep. Carothers

AN ACT

To establish as a Class “C” felony the unlawful, wanton, or malicious killing or disabling of livestock of another; to allow in addition, the collection of damages in an amount double the value thereof; to define livestock.

Be It Enacted by the Legislature of Alabama:

Section 1. Any person, who unlawfully, wantonly or maliciously, kills, disables, disfigures, destroys or injures the livestock of another while said livestock is on the premises of the owner of said livestock or on the premises of a person having charge thereof shall be guilty of a Class “C” felony.

Section 2. In addition to being guilty of a Class “C” felony, **any person who unlawfully, wantonly or maliciously, kills, disables, disfigures, destroys, or injures the livestock of another while such livestock is on the premises of the owner of the livestock, or on the premises of a person having charge thereof, shall be liable for damages sustained by the killing, disabling, disfiguring, or destroying of said livestock in an amount equal to double the value thereof.**

Section 3. For purposes of this Act, livestock is defined as horses, cows, swine, goats, sheep, mules and asses.

Section 4. The provisions of this act are severable. If any part of the act is declared invalid or unconstitutional, that declaration shall not affect the part which remains.

Section 5. All laws or part of laws which conflict with this act are hereby repealed.

Section 6. This act shall become effective immediately following its enactment and approval by the Governor or upon its otherwise becoming a law.

Approved May 20, 1993

Time: 5:53 P.M.

Act No. 93-720

H. 14 – Reps. Cullins, Haney

AN ACT

To amend Section 32-5-240, Code of Alabama 1975, to require the use of lighting equipment on motor vehicles when windshield wipers are in use as a result of rain, sleet, or snow.

Be It Enacted by the Legislature of Alabama:

Section 1. Section 32-5-240, Code of Alabama 1975, is amended to read as follows:

“§32-5-240.

“(a) When lighted headlamps required.

“(1) Every vehicle upon a highway within this state, except a parked vehicle, which shall be subject to Section 32-5-244, shall display lighted lamps and illuminating devices required by this section for different classes of vehicles at the following times:

“a. From a half hour after sunset to a half hour before sunrise.

“b. At any time when the windshield wipers of the vehicle are in use because of rain, sleet, or snow, except when the use is intermittent because of misting rain, sleet, or snow.

“c. At any time when there is not sufficient light to render clearly discernible persons and vehicles on the highway at a distance of 500 feet.

“(2) Notwithstanding subdivision (1), whenever motor vehicles or other vehicles are operated in combination during a time that lamps and illuminating devices are required to be lighted, any lamp, other than a tail lamp, that, by reason of its location on a vehicle in the combination would be obscured by another vehicle of the combination, need not be lighted. This subdivision shall not affect the requirement that lighted clearance lamps be displayed on the front of the foremost vehicle required to have clearance lamps or that all lamps required on the rear of the rearmost vehicle of any combination shall be lighted.

“(b) Head lamps on motor vehicles.

“(1) Every motor vehicle, other than a motorcycle or motor-driven cycle, shall be equipped with at least two but not more than four head lamps, with at least one but not more than two on each side of the front of the motor vehicle. The head lamps shall comply with the requirements and limitations of Section 32-5-242.

“(2) Every motorcycle and every motor-driven cycle shall be equipped with at least one and not more than two head lamps which shall comply with the requirements and limitations of Section 32-5-242.

“(3) Every head lamp upon every new motor vehicle sold after January 1, 1950, including every motorcycle and motor-driven cycle, shall be located at a height measured from the center of the head lamp of not more than 54 inches nor less than 24 inches to be measured as set forth in Section 32-5-242.

“(c) Tail lamps.

“(1) Every motor vehicle, trailer, semitrailer, and pole trailer and any other vehicle which is being drawn at the end of a train of vehicles shall be equipped with at least one tail lamp mounted on the rear which, when lighted as required, emits a red light plainly visible from a distance of 500 feet to the rear. When vehicles are drawn in a train, only the tail lamp on the rearmost vehicle need actually be seen from the distance specified.

“(2) Every tail lamp upon every vehicle shall be located at a height of not more than 60 inches nor less than 20 inches to be measured as set forth in Section 32-5-242.

“(3) Every motor vehicle shall have a tail lamp or a separate lamp so constructed and placed as to illuminate with a white light the rear registration plate and render it clearly legible from a distance of 50 feet to the rear. Any tail lamp or tail lamps, together with any separate lamp for illuminating the rear registration plate, shall be so wired as to be lighted whenever the head lamps or auxiliary driving lamps are lighted.

“(d) Additional equipment required on certain vehicles. In addition to other equipment required in this article, the following vehicles shall be equipped in the following manner:

“(1) On every bus or truck, whatever its size, the following shall be on the rear: two red reflectors, one at each side, and one stop light.

“(2) On every bus or truck 80 inches or more in overall width, in addition to the requirements in subdivision (1):

"a. On the front, two clearance lamps, one at each side.

"b. On the rear, two clearance lamps, one on each side.

"c. On each side, two side marker lamps, one at or near the front and one at or near the rear.

"d. On each side, two reflectors, one at or near the front and one at or near the rear.

"(3) On every truck tractor:

"a. On the front, two clearance lamps, one at each side.

"b. On the rear, one stop light.

"(4) On every trailer or semitrailer having a gross weight in excess of 3,000 pounds:

"a. On the front, two clearance lamps, one at each side.

"b. On each side, two side marker lamps, one at or near the front and one at or near the rear.

"c. On each side, two reflectors, one at or near the front and one at or near the rear.

"d. On the rear, two clearance lamps, one at each side, also two reflectors, one at each side, and one stop light.

"(5) On every pole trailer having a gross weight in excess of 3,000 pounds gross weight:

"a. On each side, one side marker lamp and one clearance lamp which may be in combination, to show to the front, side, and rear.

"b. On the rear of the pole trailer or load, two reflectors, one at each side.

"(6) On every trailer, semitrailer, or pole trailer having a gross weight of 3,000 pounds or less: on the rear, two reflectors, one on each side. If the load or dimensions of any trailer or semitrailer obscures the stop light on the towing vehicle, the towed vehicle shall also be equipped with one stop light.

"(e) Lamps on other vehicles and equipment. All vehicles, including animal-drawn vehicles and those for which special permits have been issued under authority of Section 32-9-29, not otherwise specifically required to be equipped with lamps, shall at the times specified in subsection (a) of this section be equipped with at least one lighted lamp or lantern exhibiting a white light visible from a distance of 500 feet to the front of the vehicle and with a lamp or lantern exhibiting a red light visible from a distance of 500 feet to the rear.

“(f) Stop lamps required on new motor vehicles. It is unlawful for any person to sell any new motor vehicle, including any motor-cycle or motor-driven cycle, in this state or for any person to drive the vehicle on the highways unless it is equipped with a stop lamp meeting the requirements of Section 32-5-242.

“(g) New motor vehicles to be equipped with reflectors.

“(1) No new motor vehicle first sold on or after January 1, 1950, other than a truck tractor, motorcycle, or motor-driven cycle shall be operated on a highway unless the vehicle carries on the rear, either as a part of the tail lamps or separately, two red reflectors. Every motorcycle and every motor-driven cycle shall carry at least one reflector, meeting the requirements of this section. Vehicles specifically provided for in subsection (d) of this section shall be equipped with reflectors as required by that subsection.

“(2) These reflectors shall be mounted on the vehicle at a height not less than 20 inches nor more than 60 inches measured as set forth in subsection (a) of Section 32-5-242, shall be of such size and characteristics, and shall be so mounted as to be visible at night from 300 feet.

Section 2. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved May 20, 1993

Time: 5:54 P.M.

Act No. 93-721

H. 20 – Rep. Collins

AN ACT

To amend Section 11-50-393 of the Code of Alabama 1975, relating to fees for members and the chair of boards of directors of gas districts.

Be It Enacted by the Legislature of Alabama:

Section 1. Section 11-50-393 of the Code of Alabama 1975, is hereby amended to read as follows:

“§11-50-393.

“Each district incorporated under this article shall have a board of directors of not less than three members, and the members shall elect a chairman of the board. Unless otherwise provided in the certificate of incorporation, the board of directors shall consist of at

least one member for each municipality which is a member of the district. Unless otherwise provided in the certificate of incorporation, the member of the board of directors representing each member municipality shall be elected by the governing body of each municipality and shall serve for a term of office concurrent with the term of office of the mayor of the municipality. A representative of each municipality may, but need not be, the mayor thereof. The members of the board of directors shall serve without compensation, except that they shall be reimbursed for actual expenses incurred in the performance of their duties under this article, and, at the discretion of the board of directors, they may be paid a director's fee not exceeding \$150 for each director's meeting attended, but not to exceed one meeting each calendar month. The chairman of the board of directors shall serve without compensation, except that he or she shall be reimbursed for actual expenses incurred in the performance of his duties under this article, and, at the discretion of the board of directors, he or she may be paid a director's fee not exceeding \$200 for each director's meeting attended, but not to exceed one meeting each calendar month. Members of the board of directors shall hold office until their successors are appointed and qualify. Appointments to fill a vacancy shall be for the unexpired term. The appointing authority may remove any member of the board of directors within the term for which he or she is appointed after giving the member a copy of the charges against him or her and an opportunity to be heard in his or her defense. The removal action of the appointing authority shall be final and nonreviewable."

Section 2. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved May 20, 1993

Time: 5:55 P.M.

Act No. 93-722

H. 193 – Reps. Black (M), Campbell

AN ACT

To provide further for the devolution of an estate at death; to provide further for the duties and powers of a personal representative of an estate; to provide further for payment of expenses in estate litigation and employment of agents and employees of the estate; to provide for bonding requirements of a personal representative or special administrator; to provide for compensation of personal representatives; to repeal Sections 43-2-80, 43-2-81, 43-2-273, 43-2-310, 43-2-315, 43-2-680, 43-2-681 and 43-2-316, Code of Alabama 1975; and to provide that this act shall become effective January 1, 1994.

*Be It Enacted by the Legislature of Alabama:***Section 1.** Devolution of Estate at Death; Restrictions.

(a) Upon the death of a person, decedent's real property devolves to the persons to whom it is devised by decedent's last will or to those indicated as substitutes for them in cases involving lapse, renunciation, or other circumstances affecting the devolution of a testate estate, or in the absence of testamentary disposition, to decedent's heirs, or to those indicated as substitutes for them in cases involving renunciation or other circumstances affecting devolution of intestate estates.

(b) Decedent's personal property devolves to the personal representative to be distributed to:

(1) Those persons to whom it is devised by the testator's last will or to those indicated as substitutes for them in cases involving lapse, renunciation, or other circumstances affecting the devolution of a testate estate; or

(2) In the absence of testamentary disposition, to decedent's heirs, or to those indicated as substitutes for them in cases involving renunciations or other circumstances affecting devolution of intestate estates.

(c) The devolution of a decedent's property, real and personal, is subject to homestead allowance, exempt property, family allowance, rights of creditors, elective share of the surviving spouse, and to administration.

Section 2. Time of Accrual of Duties and Powers.

The duties and powers of a personal representative commence upon appointment. The powers of a personal representative relate back in time to give acts by the person appointed which are beneficial to the estate occurring prior to appointment the same effect as those occurring thereafter. Prior to appointment, a person named personal representative in a will may carry out written instructions of the decedent relating to the decedent's body, funeral, and burial arrangements. A personal representative may ratify and accept acts on behalf of the estate done by others where the acts would have been proper for a personal representative.

Section 3. Priority Among Different Letters.

A person to whom general letters are issued first has exclusive authority under the letters until the appointment is terminated or modified. If, through error, general letters are afterwards issued to another, the first appointed personal representative may recover any property of the estate in the hands of the personal representative subsequently appointed, but the acts of the latter done in good

faith before notice of the first letters are not void for want of validity of appointment.

Section 4. General Duties; Relation and Liability to Persons Interested in Estate; Standing to Sue.

(a) A personal representative is a fiduciary. Except as otherwise provided by the terms of the will, the personal representative shall observe the standards in dealing with the estate that would be observed by a prudent person dealing with the property of another. If the personal representative has special skills or is named personal representative on the basis of representations of special skills or expertise, the personal representative is under a duty to use those skills. A personal representative is under a duty to settle and distribute the estate of the decedent in accordance with the terms of any probated and effective will and Title 43 of the Code of Alabama 1975, and as expeditiously and efficiently as is consistent with the best interests of the estate. The personal representative shall use the authority conferred upon personal representatives by law, the terms of the will, if any, and any order in proceedings to which the personal representative is party for the best interests of successors to the estate.

(b) A personal representative shall not be surcharged for acts of administration or distribution if the conduct in question was authorized at the time. Subject to other obligations of administration, a probated will is authority to administer and distribute the estate according to its terms. An order of appointment of a personal representative is authority to distribute apparently intestate assets to the heirs of the decedent if, at the time of distribution, the personal representative is not aware of a pending testacy proceeding, a proceeding to vacate an order entered in an earlier testacy proceeding, a proceeding questioning the personal representative's appointment or fitness to continue, or a supervised administration proceeding. Nothing in this section affects the duty of the personal representative to administer and distribute the estate in accordance with the rights of claimants, the surviving spouse, any minor or dependent child, and any pretermitted child of the decedent.

(c) Except as to proceedings which do not survive the death of the decedent, a personal representative of a decedent domiciled in this state at death has the same standing to sue and be sued in the courts of this state and the courts of any other jurisdiction as the decedent had immediately prior to death.

Section 5. Personal Representative to Proceed Without Court Order; Exception.

A personal representative shall proceed expeditiously with the settlement and distribution of a decedent's estate, and except as

otherwise specified by law or ordered by the court, shall do so without adjudication, order, or direction of the court, but the personal representative may invoke the jurisdiction of the court to resolve any questions concerning the estate or its administration.

Section 6. Duty of Personal Representative; Inventory and Appraisement.

(a) Within two months after appointment, a personal representative, who is not a special administrator or a successor to another representative who has previously discharged this duty, shall file an inventory of property owned by the decedent at the time of death, listing it with reasonable detail, and indicating as to each listed item, its fair market value as of the date of the decedent's death, and the type and amount of any encumbrance that may exist with reference to any item.

(b) The personal representative shall send a copy of the inventory to interested persons who request it. If the testator, by express provision in the will to that effect, exempts the personal representative from filing an inventory, the personal representative shall not be required to file the initial inventory, or any supplement thereto, with the court, unless in the opinion of the court, the estate is likely to be wasted, to the prejudice of any interested person.

Section 7. Duty of Personal Representative; Supplementary Inventory.

If any property not included in the initial inventory comes to the knowledge of a personal representative or if the personal representative learns that the value or description indicated in the initial inventory for any item is erroneous or misleading, the personal representative shall make a supplement to the initial inventory or appraisement showing the market value as of the date of the decedent's death of the new item or the revised market value or descriptions, and the appraisers or other data relied upon, if any, and file it with the court if the initial inventory was filed, or furnish copies thereof to persons interested in the new information.

Section 8. Duty of Personal Representative; Possession of Estate.

Except as otherwise provided by a decedent's will, every personal representative has a right to, and shall take possession or control of, the decedent's property, except that any real property or tangible personal property may be left with or surrendered to the person presumptively entitled thereto unless or until, in the judgment of the personal representative, possession of the property by

the personal representative will be necessary for purposes of administration. A request in writing by a personal representative for delivery of any property possessed by an heir or devisee is conclusive evidence, in any action against the heir or devisee for possession thereof, that the possession of the property by the personal representative is necessary for purposes of administration. The personal representative shall pay taxes on, receive the income therefrom, and pay the expenses reasonably necessary for the management, protection and preservation of, the estate in the possession of the personal representative. The personal representative may maintain an action to recover possession of property or to determine the title thereto.

Section 9. Power to Avoid Transfers.

The property liable for the payment of unsecured debts of a decedent includes all property transferred by the decedent by any means which is in law void or voidable as against creditors, and subject to prior liens, the right to recover this property, so far as necessary for the payment of unsecured debts of the decedent, is exclusively in the personal representative.

Section 10. Powers of Personal Representatives; In General.

Until termination of the appointment, a personal representative has the same power over the title to property of the estate, subject to Sections 14 and 15, that an absolute owner would have, in trust however, for the benefit of the creditors and others interested in the estate. This power may be exercised without notice, hearing, or order of court.

Section 11. Improper Exercise of Power; Breach of Fiduciary Duty.

If the exercise of power concerning the estate is improper, the personal representative is liable to interested persons for damage or loss resulting from breach of the personal representative's fiduciary duty to the same extent as a trustee of an express trust. The rights of purchasers and others dealing with a personal representative shall be determined as provided in Sections 11 and 12.

Section 12. Sale, Encumbrance, or Transaction Involving Conflict of Interest; Voidable; Exceptions.

Any sale or encumbrance to the personal representative, the personal representative's spouse, agent or attorney, or any corporation or trust in which the personal representative has a substantial beneficial interest, or any transaction which is affected by a substantial conflict of interest on the part of the personal representative, is voidable by any person interested in the estate except one who has consented after fair disclosure, unless:

(1) The will or a contract entered into by the decedent expressly authorized the transaction.

(2) The transaction is approved by the court after notice to interested persons.

(3) The transaction is otherwise authorized by law.

Section 13. Persons Dealing with Personal Representative; Protection.

A person who, in good faith, either assists a personal representative or deals with the personal representative for value is protected as if the personal representative properly exercised the power. The fact that a person knowingly deals with a personal representative does not alone require the person to inquire into the existence of a power or the propriety of its exercise. Except for restrictions on powers of personal representatives which are endorsed on the letters, no provision in any will or order of court purporting to limit the power of a personal representative is effective except as to persons with actual knowledge thereof. A person is not bound to see to the proper application of estate assets paid or delivered to a personal representative. The protection here expressed extends to instances in which some procedural irregularity or jurisdictional defect occurred in proceedings leading to the issuance of letters, including a case in which the alleged decedent is found to be alive. The protection here expressed is not by substitution for that provided by comparable provisions of the laws relating to commercial transactions and laws simplifying transfers of securities by fiduciaries.

Section 14. Transactions Authorized for Personal Representatives; Exceptions.

Except as restricted or otherwise provided by the will or by an order of court and subject to the priorities stated in Section 43-8-76 of the Code of Alabama 1975, a personal representative, acting prudently for the benefit of the interested persons, may properly:

(1) Retain assets owned by the decedent pending distribution or liquidation including those in which the representative is personally interested or which are otherwise improper for trust investment.

(2) Receive assets from fiduciaries, or other sources.

(3) Perform, compromise, or refuse performance of the decedent's contracts that continue as obligations of the estate, as the personal representative may determine under the circumstances. In performing enforceable contracts by the decedent to convey or lease land, the personal representative, among other possible courses of action, may do either of the following:

a. Execute and deliver a deed of conveyance for cash payment of all sums remaining due or the purchaser's note for the sum remaining due secured by a mortgage or deed of trust on the land.

b. Deliver a deed in escrow with directions that the proceeds when paid in accordance with the escrow agreement, be paid to the successors of the decedent, as designated in the escrow agreement.

(4) Satisfy written charitable pledges of the decedent irrespective of whether the pledges constituted binding obligations of the decedent or were properly presented as claims, if in the judgment of the personal representative the decedent would have wanted the pledges completed under the circumstances.

(5) If funds are not needed to meet debts and expenses currently payable and are not immediately distributable, deposit or invest liquid assets of the estate, including moneys received from the sale of other assets, in federally insured interest-bearing accounts, readily marketable secured loan arrangements, or other prudent investments which would be reasonable for use by trustees generally.

(6) Abandon personal property when, in the opinion of the personal representative, it is valueless, or is so encumbered, or is in condition that it is of no benefit to the estate.

(7) Vote stocks or other securities in person or by general or limited proxy.

(8) Pay calls, assessments, and other sums chargeable or accruing against or on account of securities, unless barred by the provisions relating to claims.

(9) Hold a security in the name of a nominee or in other form without disclosure of the interest of the estate but the personal representative is liable for any act of the nominee in connection with the security so held.

(10) Insure the assets of the estate against damage, loss, and liability and the personal representative against liability as to third persons.

(11) Borrow money without security or with security of personal property to be repaid from the estate assets or otherwise; and advance money for the protection of the estate.

(12) Effect a fair and reasonable compromise with any debtor or obligor, or extend, renew, or in any manner modify the terms of any obligation owing to the estate. If the personal representative holds a mortgage, pledge, or other lien upon property of another person, the personal representative may, in lieu of foreclosure, accept a conveyance or transfer of encumbered assets from the owner thereof in satisfaction of the indebtedness secured by the lien.

(13) Pay taxes, assessments, and other expenses incident to the administration of the estate.

(14) Sell or exercise stock subscription or conversion rights; consent, directly or through a committee or other agent, to the reorganization, consolidation, merger, dissolution, or liquidation of a corporation or other business enterprise.

(15) Enter for any purpose into a lease as lessor or lessee, with or without option to purchase or renew, for a term not to exceed one year.

(16) Allocate items of income or expense to either estate income or principal, as permitted or provided by law.

(17) Employ necessary persons, including appraisers, attorneys, auditors (who may include certified public accountants, public accountants, or internal auditors), investment advisors, or agents, even if they are associated with the personal representative, to advise or assist the personal representative in the performance of administrative duties; act without independent investigation upon recommendations of agents or advisors; and instead of acting personally, employ one or more agents to perform any act of administration, whether or not discretionary.

(18) Prosecute or defend claims or proceedings in any jurisdiction for the protection or benefit of the estate and of the personal representative in the performance of duties of the personal representative.

(19) Continue any unincorporated business or venture in which the decedent was engaged at the time of death as provided in any of the following:

a. In the same business form for a period of not more than one year from the date of appointment of a general personal representative if continuation is a reasonable means of preserving the value of the business including good will.

b. In the same business form for any additional period of time that may be approved by order of the court in a proceeding to which the persons interested in the estate are parties.

c. Throughout the period of administration if the business is incorporated by the personal representative and if none of the probable distributees of the business who are competent adults object to its incorporation and retention in the estate.

(20) Incorporate any business or venture in which the decedent was engaged at the time of death.

(21) Provide for exoneration of the personal representative from personal liability in any contract entered into on behalf of the estate.

(22) Satisfy and settle claims and distribute the estate as provided in Title 43 of the Code of Alabama 1975.

Section 15. Transactions Authorized for Personal Representatives; Prior Court Approval.

Unless expressly authorized by the will, a personal representative, only after prior approval of court, may:

(1) Acquire or dispose of an asset, including land in this or another state, for cash or on credit, at public or private sale; and manage, develop, improve, exchange, partition, change the character of, or abandon an estate asset.

(2) Make ordinary or extraordinary repairs or alterations in buildings or other structures, demolish any improvements, or raze existing or erect new party walls or buildings.

(3) Subdivide, develop, or dedicate land to public use; make or obtain the vacation of plats and adjust boundaries; adjust differences in valuation on exchange or partition by giving or receiving considerations; or dedicate easements to public use without consideration.

(4) Enter for any purpose into a lease as lessor or lessee, with or without option to purchase or renew, for a term of more than one year.

(5) Enter into a lease or arrangement for exploration and removal of minerals or other natural resources or enter into a pooling or unitization agreement.

(6) Sell, mortgage, or lease any real or personal property of the estate or any interest therein for cash, credit, or for part cash and part credit, and with or without security for any unpaid balance.

(7) Pay compensation of the personal representative.

Section 16. Powers and Duties of Successor Personal Representative.

A successor personal representative has the same power and duty as the original personal representative to complete the administration and distribution of the estate, as expeditiously as possible, but a successor personal representative shall not exercise any power expressly made personal to the personal representative named in the will.

Section 17. Co-representatives; When Joint Action Required.

If two or more persons are appointed co-representatives and unless the will provides otherwise, the concurrence of all is

required on all acts connected with the administration and distribution of the estate. This restriction does not apply: (i) when any co-representative receives and receipts for property due the estate; (ii) when the concurrence of all cannot readily be obtained in the time reasonably available for emergency action necessary to preserve the estate; or (iii) when a co-representative has been delegated to act for the others. Persons dealing with a co-representative, if actually unaware that another has been appointed to serve as co-representative or if advised by the personal representative with whom they deal that the personal representative has authority to act alone for any of the reasons mentioned herein, are as fully protected as if the person with whom they dealt had been the sole personal representative.

Section 18. Powers of Surviving Personal Representative.

Unless the terms of the will otherwise provide, every power exercisable by personal co-representatives may be exercised by the one or more remaining after the appointment of one or more is terminated; and if one of two or more nominated as personal co-representatives is not appointed, those appointed may exercise all the powers incident to the office.

Section 19. Compensation of Personal Representative.

(a) A personal representative is entitled to reasonable compensation for services as may appear to the court to be fair considering such factors that may include, but are not limited to, the novelty and difficulty of the administrative process, the skill requisite to perform the service, the likelihood that the acceptance of the particular employment will preclude other employment, the fee customarily charged in the locality for similar services, the amount involved and the results obtained, the requirements imposed by the circumstances and condition of the estate, the nature and length of the professional relationship with the decedent, the experience, reputation, diligence, and ability of the person performing the services, the liability, financial or otherwise, of the personal representative, or the risk and responsibility involved, which shall not exceed two and one-half percent of the value of all property received and under the possession and control of the personal representative and two and one-half percent of all disbursements.

(b) In addition the court may allow a reasonable compensation for extraordinary services performed for the estate.

(c) If a will provides for compensation, or no compensation, of the personal representative either directly or conditionally and there is no contract with the decedent regarding compensation, the personal representative may renounce the provisions and if no

alternate or successor personal representative is willing to serve for the compensation provided in the will for the personal representative, the personal representative in the order of priority provided in the will shall be entitled to reasonable compensation. A personal representative also may be renounce the right to all or any part of the compensation. A renunciation may be filed with the court.

(d) Nothing in this section shall be construed to limit the right of a decedent or all affected beneficiaries to agree in writing with the personal representative, as to the amount or the method of determining the personal representative's compensation, which shall be binding on all parties if the appointment is accepted and the agreement is not unconscionable.

Section 20. Expenses in Estate Litigation.

If any personal representative or person nominated as personal representative defends or prosecutes any proceeding in good faith, whether successful or not, the personal representative is entitled to receive from the estate necessary expenses and disbursements, including, but not limited to, reasonable attorneys' fees incurred.

Section 21. Proceedings for Review of Employment of Agents and Compensation of Personal Representatives and Employees of Estate.

On petition or appropriate motion of an interested person, and after notice to all interested persons, the propriety of employment of any person by a personal representative including any attorney, auditor (who may include certified public accountants, public accountants, or internal auditors), investment advisor, or other specialized agent or assistant, the reasonableness of the compensation of any person so employed, or the reasonableness of the compensation determined by the personal representative for the personal representative's own services, may be reviewed by the court. Any person who has received excessive compensation from an estate for services rendered may be ordered to make appropriate refunds.

Section 22. Bond.

(a) The court must require a personal representative or special administrator to furnish bond payable to the judge of probate conditioned upon faithful discharge of all duties of the trust according to law, with sureties as it shall specify. Unless otherwise directed, the bond must be in the amount of the aggregate capital value of the property of the estate in the personal representative's control, plus one year's estimated income, and minus the value of

securities deposited under arrangements requiring an order of the court for their removal and the value of any land which the fiduciary, pursuant to Section 14, lacks power to sell or convey without court authorization. The court, in lieu of sureties on a bond, may accept other collateral for the performance of the bond, including a pledge of securities or any other assets or a mortgage of land.

(b) The court may at any time reduce the bond of the personal representative or require the personal representative to provide additional or larger bond as may seem to be proper or necessary to protect the estate and the interests of persons interested in the estate.

(c) Any individual, who is authorized under Chapter 2 of Title 43 of the Code of Alabama 1975, to nominate a personal representative by will, may, by express provision in the will, exempt the personal representative from giving bond; and when a provision to that effect is made, the bond must not be required except in the following cases:

(1) When any guardian, conservator, guardian ad litem, other fiduciary, or any person interested in the estate of the decedent makes an affidavit, showing the affiant's interest and alleging that the interest is, or will be, endangered for want of security.

(2) When, in the opinion of the court, on its own motion, the estate is likely to be wasted, to the prejudice of any person interested therein.

(d) In the cases provided for by subsection (c), upon application for the personal representative to give bond, the personal representative may show cause against applications of the exceptions and must have notice as the court may deem reasonable; but if the personal representative is not in the state, the application may be heard and determined without notice.

Section 23. Terms and Requirements of Bonds.

(a) The following requirements and provisions apply to any bond required under Section 21:

(1) Sureties are jointly and severally liable with the personal representative and with each other.

(2) By executing an approved bond of a personal representative, the surety consents to the jurisdiction of the court that issued letters to the primary obligor in any proceeding pertaining to the fiduciary duties of the personal representative and naming the surety as a party respondent. Notice of any proceeding must be delivered to the surety or mailed by registered or certified mail to the address listed with the court at the place where the bond is filed and to the address as then known to the petitioner.

(3) On petition of a successor personal representative or any interested person, a proceeding may be initiated against a surety for breach of the obligation of the bond of the personal representative.

(4) The bond of the personal representative is not void after the first recovery, but may be proceeded against from time to time until the whole penalty is exhausted.

(b) No proceeding may be commenced against the surety on any matter as to which an action or proceeding against the primary obligor is barred by adjudication or limitation.

24. Prior Laws Repealed.

Sections 43-2-80, 43-2-81, 43-2-273, 43-2-310, 43-2-315, 43-2-680, 43-2-681 and 43-2-316, Code of Alabama 1975, are repealed.

Section 25. Application to Existing Estates.

(a) Estates filed for probate prior to the effective date of this act, the administration of which continues in effect after the date this act becomes effective, are unaffected by this act. Those estates continue in effect and administration continues as they existed prior to this act with all the powers and duties previously granted to the personal representative either under the will or by a court; except that a personal representative appointed prior to the effective date of this act, upon petition to and approved by the court, may be governed by this act, and in addition, have the powers and duties of a personal representative enumerated in this act and as further authorized by the court.

(b) Upon election by a previously appointed personal representative to be governed by this act, the court also may approve the bond, reduce the bond, or require additional or larger bond of the personal representative and set fees of the personal representative as provided in this act.

Section 26. Avoiding Conflicts of Law.

Nothing contained in this act shall be construed to abrogate any right, authority, or discretion conferred upon a personal representative or other fiduciary under any other law.

Section 27. The provisions of this act are severable. If any part of this act is declared invalid or unconstitutional, that declaration shall not affect the part which remains.

Section 28. This act shall take effect January 1, 1994, upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved May 20, 1993

Time: 5:56 P.M.

Act No. 93-723

H. 54 – Reps. Curry, Clark (J), McDowell,
Freeman, Hall, Sanderford,
Smith (R)

AN ACT

To amend Section 22-11A-17, Code of Alabama 1975, relating to the testing for sexually transmitted diseases of persons sentenced to a jail or a correctional facility under certain circumstances, to provide further that the victim of a sexual offense may request the results of HIV testing of the offender.

Be It Enacted by the Legislature of Alabama:

Section 1. Section 22-11A-17, Code of Alabama 1975, is amended to read as follows:

“Section 22-11A-17.

“(a) All persons sentenced to confinement or imprisonment in any city or county jail or any state correctional facility for 30 or more consecutive days shall be tested for those sexually transmitted diseases designated by the state board of health, upon entering the facility, and any inmate so confined for more than 90 days shall be examined for those sexually transmitted diseases 30 days before release. The results of any positive or reactive tests shall be reported as provided in section 22-11A-14. Additionally, the results of any positive or negative test for HIV of a sexual offender shall be provided to the State Health Officer or his or her designee as provided in Section 22-11A-14. The provisions of this section shall not be construed to require the testing of any person held in a city or county jail awaiting removal to a state correctional facility.

“(b) The authorities of any state, county or city facility shall provide for treatment of any inmate diagnosed with a treatable **sexually transmitted disease and not otherwise financially able to pay for such treatment.** In the case of a discharge inmate who is infectious, a written notice shall be submitted to the state health officer or to the county health officer of the locality to which the prisoner is returned, setting forth the necessary facts and a record of the treatment administered while in custody.”

“(c) At the request of the victim of a sexual offense (as defined in Section 13A-6-60, Code of Alabama, 1975, et. seq.), the State Health Department shall release the results of any tests on the defendant convicted of such sexual offense, for the presence of etiologic agent for Acquired Immune Deficiency Syndrome (AIDS or HIV) to the victim of such sexual offense. The State Health Department shall also provide the victim of such sexual offense counsel regarding AIDS disease, AIDS testing, in accordance with applicable law and referral for appropriate health care and support services.”

Section 2. The provisions of this act are severable. If any part of this act is declared invalid or unconstitutional, that declaration shall not affect the part which remains.

Section 3. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved May 20, 1993

Time: 5:57 P.M.

Act No. 93-724

S. 549 – Senator Windom

AN ACT

To create the Alabama Limited Liability Company Act; to allow the formation of domestic limited liability companies; to provide for definitions, formation procedures, professional services, and relationships of members and managers of companies to other members and third parties; to provide for contributions and distributions of a company; to provide for transfer of membership interests; to provide for registration of foreign limited liability companies; to provide for the merger and consolidation of domestic companies; to provide filing and certifying fees; and to provide a delayed effective date for the act.

Be It Enacted by the Legislature of Alabama:

Section 1. This act shall be known and may be cited as the “Alabama Limited Liability Company Act.”

Section 2. As used in this act, unless the context otherwise requires, the following terms mean:

(a) **ARTICLES OF ORGANIZATION.** The articles provided for by Section 10, or, if they have been amended or restated, the articles as most recently amended or restated. In the case of a foreign limited liability company, the term includes all documents serving a similar function that are required to be filed to form the limited liability company in the state or other jurisdiction where it is organized.

(b) **BANKRUPT.** A bankrupt or a debtor under the federal bankruptcy law, as amended from time to time, or an insolvent under any state insolvency act.

(c) **COURT.** Every court and judge having jurisdiction in a case.

(d) **FINANCIAL RIGHTS.** Rights to (1) share in profits and losses as provided in Section 28, (2) receive interim distributions as provided in Section 29, and (3) receive termination distributions as provided in Section 41.

(e) **FOREIGN LIMITED LIABILITY COMPANY.** An organization formed under the laws of any jurisdiction other than Alabama that is substantially similar to a limited liability company.

(f) **GOVERNANCE RIGHTS.** All a member's rights as a member of a limited liability company except financial rights, including without limitation, the rights to participate in the management of the limited liability company and to bind the limited liability company as provided in Section 21.

(g) **LIMITED LIABILITY COMPANY OR DOMESTIC LIMITED LIABILITY COMPANY.** An organization that is formed and existing under this act.

(h) **MANAGER OR MANAGERS.** A person or persons designated by the members of a limited liability company to manage the limited liability company as provided in the articles of organization.

(i) **MEMBER.** A person reflected in the required records of a limited liability company as the owner of some governance rights of a membership interest in the limited liability company.

(j) **OPERATING AGREEMENT.** A written agreement of the members governing the affairs of a limited liability company and the conduct of its business.

(k) **PERSON.** Natural persons and organizations (whether created by the laws of Alabama or another state or foreign country), including, without limitation, general partnerships, limited partnerships, limited liability companies, corporations, professional corporations, professional associations, trustees, personal representatives, fiduciaries (as defined in Section 19-3-150) or persons performing in any similar capacity, trusts, business trusts, estates, custodianships, and other associations.

Section 3. Purpose.

Limited liability companies may be organized under this act for any lawful purpose or purposes. If the purpose for which it is organized or its form makes it subject to a special provision of law, the limited liability company shall also comply with that provision.

Section 4. Powers.

Unless its articles of organization provide otherwise, every limited liability company has perpetual duration and succession in its name and has the same powers as a natural person to do all things necessary or convenient to carry out its business and affairs, including, without limitation, the following powers:

(a) To sue and be sued, complain and defend, in its name.

(b) To purchase, take, receive, lease, or otherwise acquire, own, hold, improve, use, and otherwise deal in and with real or personal property, or an interest in it, wherever situated.

(c) To sell, convey, mortgage, encumber, pledge, lease, exchange, transfer, and otherwise dispose of all or any part of its property and assets.

(d) To lend money to and otherwise assist its members.

(e) To purchase, take, receive, subscribe for, or otherwise acquire, own, hold, vote, use, employ, sell, mortgage, lend, pledge, or otherwise dispose of, and otherwise use and deal in and with shares or other interests in or obligations of domestic or foreign limited liability companies, domestic or foreign corporations, associations, general or limited partnerships, or direct or indirect obligations of the United States or of any government, state, territory, governmental district, or municipality, or of any instrumentality thereof.

(f) To make contracts, guarantees, and indemnity agreements and incur liabilities; borrow money at those rates of interest as the limited liability company may determine; issue its notes, bonds, and other obligations; and secure any of its obligations by mortgage, pledge of, or creation of security interest in, all or any of its property, franchises, or income; make contracts of guaranty and suretyship which are necessary or convenient to the conduct, promotion, or attainment of the business of the contracting company and of a corporation of which the majority of the outstanding stock is owned, directly or indirectly, by the contracting company; or make other contracts of guaranty and suretyship which are necessary or convenient to the conduct, promotion, or attainment of the business of the contracting company, or any interest therein, not inconsistent with the provisions of the Constitution of Alabama as it may be amended from time to time.

(g) To lend money for any lawful purpose, invest and reinvest its funds, and take and hold real and personal property as security for the payment of funds so loaned or invested.

(h) To conduct its business, carry on its operations, and have and exercise the powers granted by this act in any state, territory, district, or possession of the United States, or in any foreign country.

(i) To elect or appoint managers and agents of the limited liability company, and define their duties and fix their compensation.

(j) To make and alter the operating agreement, not inconsistent with its articles of organization or with the laws of this state, for the administration and regulation of the affairs of the limited liability company.

(k) To make donations for the public welfare or for charitable, scientific, or educational purposes.

(l) To transact any lawful business which the managers or members find will be in aid of governmental policy.

(m) To pay pensions and establish pension plans, pension trusts, profit-sharing plans, and other incentive plans for any or all of its managers, employees, former managers, or former employees.

(n) To indemnify a member, manager, or employee, or former member, manager, or employee of the limited liability company against expenses actually and reasonably incurred in connection with the defense of an action, suit, or proceeding, civil or criminal, in which the member, manager, or employee is made a party by reason of being or having been a member, manager, or employee of the limited liability company, except in relation to matters as to which the member, manager, or employee is determined in the action, suit, or proceeding to be liable for negligence or misconduct in the performance of duty; to make any other indemnification that is authorized by the articles of organization, the operating agreement, or by a resolution adopted by the members after notice (unless notice is waived); to purchase and maintain insurance on behalf of any person who is or was a member, manager, or employee of the limited liability company against any liability asserted against and incurred by the member, manager, or employee in any capacity or arising out of the member's, manager's, or employee's status as such, whether or not the limited liability company would have the power to indemnify the member, manager, or employee against that liability under the provisions of this subsection.

(o) To cease its activities.

(p) To have and exercise all powers necessary or convenient to effect any or all of the purposes for which the limited liability company is organized.

(q) To become a member of a general partnership, limited partnership, joint venture or similar association, or any other limited liability company.

(r) To be a promoter, incorporator, general partner, limited partner, member, associate, or manager of any corporation, partnership, limited partnership, limited liability company, joint venture, trust, or other enterprise.

(s) To render professional services, if each member or employee who renders professional services in Alabama is licensed or registered to render those professional services pursuant to applicable Alabama law and if the limited liability company complies with the limitations of Section 45.

Section 5. Limited Liability Company Name.

The name of each limited liability company as set forth in its articles of organization shall contain the words "Limited Liability Company" or the abbreviation "L.L.C." These words or their abbreviation shall be the last words of the name of every limited liability company formed under the provisions of this act. The limited liability company name may not contain a word or phrase which indicates or implies that it is organized for a purpose other than one or more of the purposes contained in its articles of organization.

Section 6. Nature of Interest of Member in Limited Liability Company.

An interest in a limited liability company is personal property.

Section 7. Unauthorized Assumption of Powers.

All persons who assume to act as a limited liability company without authority to do so shall be jointly and severally liable for all debts and liabilities created by their so acting.

Section 8. Application of Partnership Provisions to Limited Liability Companies.

The terms "partnership" and "limited partnership," when used in any chapter or title other than this act, the Alabama Partnership Act (Chapter 8, Title 10), and the Alabama Limited Partnership Act of 1983 (Chapter 9A, Title 10) include a limited liability company organized under this act, unless the limited liability company is an association taxable as a corporation for federal income tax purposes, or unless the context requires otherwise.

ARTICLE 2

FORMATION OF LIMITED LIABILITY COMPANIES

Section 9. Formation.

Two or more persons may form a limited liability company by filing the articles of organization for the limited liability company with the probate judge of the county in which the initial registered office of the limited liability company is located.

Section 10. Articles of Organization.

(a) The articles of organization shall set forth:

(1) The name of the limited liability company.

(2) The period of its duration, if not perpetual.

(3) The purpose or purposes for which the limited liability company is organized.

(4) The location and mailing address of its initial registered office, and the name of its initial registered agent at that address.

(5) The names and mailing addresses of the initial members of the limited liability company.

(6) The right, if given, of the members to admit additional members, and the terms and conditions of the admission.

(7) The right, if given, of the remaining members of the limited liability company to continue the business after an event of dissociation terminates the continued membership of a member in the limited liability company.

(8) If the limited liability company is to be managed by one or more managers, the articles of organization shall so state and shall set out the names and the mailing addresses of the manager or managers who are to serve as managers until the first annual meeting of members or until their successors are elected and qualify.

(9) Any other provision, not inconsistent with law, which the members elect to set out in the articles of organization for the regulation of the internal affairs of the limited liability company, including any provisions which under this act are required or permitted to be set out in the operating agreement of the limited liability company.

(b) It is not necessary to set out in the articles of organization any of the powers enumerated in this act.

Section 11. Amendment of Articles of Organization.

(a) The articles of organization may be amended by delivering the amendment to the probate judge in whose office the articles of organization are filed. The amendment shall set forth:

(1) The name of the limited liability company.

(2) The date of filing of the articles of organization.

(3) The amendment(s).

(b) Within 30 days after the happening of any of the following events, an amendment to the articles of organization shall be filed to reflect the occurrence of such event or events:

(1) There is a change in the name of the limited liability company.

(2) There is a false or erroneous statement in the articles of organization.

(3) There is a change in the period of duration of the limited liability company stated in the articles of organization.

(4) The members desire to make a change in any other statement in the articles of organization to accurately represent the agreement between them.

(c) The form for evidencing an amendment to the articles of organization of a limited liability company shall contain terms and provisions consistent with this act. The amendment shall be approved, unless the articles of organization require a greater vote, by a majority vote of the members entitled to vote.

Section 12. Filing.

(a) The articles of organization and two copies shall be delivered to the probate judge. If the probate judge finds that the articles of organization conform to law, the probate judge shall, upon receipt of all fees required by this act:

(1) Endorse on the articles of organization and on each of the copies the word "Filed," and the hour, day, month, and year of the filing.

(2) File the articles of organization in the office of the probate judge and certify the two copies.

(3) Issue one certified copy of the articles of organization, and return the certified copy to the organizers or their representative.

(4) Within 10 days after the issuance of the certified copy of the articles of organization, transmit to the Secretary of State a certified copy of the articles of organization, indicating thereon the place, date, and time of filing of the articles of organization.

(b) For failure of the probate judge to comply with the requirement in subdivision (4) of subsection (a) of this section, the probate judge shall forfeit fifty dollars (\$50) to the state, to be recovered in an action by the state.

(c) An amendment and two copies shall be delivered to the office of the probate judge in which the articles of organization are filed. A person who executes an amendment as an agent or fiduciary need not exhibit evidence of authority as a prerequisite to filing. If the probate judge finds that the amendment substantially conforms to law, the probate judge shall, upon receipt of all filing fees required by this act:

(1) Endorse on the amendment the word "Filed" and the day, month, and year of the filing thereof.

(2) File the endorsed amendment in the office of the probate judge.

(d) Upon the filing of the amendment in the office of the probate judge, the articles of organization shall be amended as set forth therein.

Section 13. Execution.

(a) Unless otherwise specified in this act, each document required by this act to be filed in the office of the probate judge shall be executed in the following manner:

(1) The articles of organization shall be signed by all members named therein.

(2) An amendment shall be signed by at least one member.

(3) If an amendment requires the adding of a new member, the amendment shall be signed by a person who was a member before the amendment was filed and by the new member.

(4) Articles of dissolution shall be signed by at least one member, as authorized pursuant to the operating agreement.

(b) Any person may sign a document required by this act by an attorney-in-fact, but a power of attorney relating to the admission of a member shall specify that admission of a new member is an authorized act of the attorney-in-fact.

(c) The execution of articles of organization, of dissolution, or of an amendment by a member constitutes an affirmation that the facts therein are true under penalties for perjury prescribed by Section 13A-10-103 or its successor.

Section 14. Existence of Limited Liability Company. (a) Upon the filing of the articles of organization with the probate judge, the limited liability company's existence shall begin. A copy of the articles of organization that is stamped "filed" and marked with the filing date and issued by the probate judge shall be conclusive evidence that all conditions precedent required to be performed by the members have been complied with and that the limited liability company has been legally organized under this act, except in a proceeding brought by the State of Alabama either to cancel or revoke the articles of organization or to involuntarily dissolve the limited liability company.

(b) A limited liability company may not transact business or incur indebtedness, except that which is incidental to its organization or to obtaining subscriptions for or payment of contributions, until the articles of organization have been filed as described in subsection (a) above. Persons engaged in prefiling activities other than those authorized by this subsection shall be jointly and severally liable for any debts or liabilities incurred in the course of those activities as provided in Section 7. This section shall not be interpreted to invalidate any debts, contracts, or liabilities of the limited liability company incurred on behalf of the limited liability company prior to the filing of its articles of organization.

Section 15. Registered Office and Registered Agent To Be Maintained.

(a) Each limited liability company shall have and continuously maintain in this state:

(1) An office, which may be a place of its business in this state.

(2) An agent for service of process on the limited liability company. The agent shall be an individual resident of this state, a domestic corporation, or a foreign corporation authorized to do business in this state.

(b) Each limited liability company shall file with the office of the Secretary of State, within the time prescribed in this section, a report setting forth:

(1) The name of the limited liability company.

(2) The county in which its articles of organization are filed.

(3) Its principal place of business in this state.

(4) The street address of the office required to be maintained under subdivision (a)(1).

(5) The name and street address of the agent for service of process required to be maintained under subdivision (a)(2).

(c) The report shall be delivered to the Secretary of State within 30 days after the date the articles of organization are filed. Proof to the satisfaction of the Secretary of State that, prior to the due date for the filing of the report, it was deposited in the United States mail in a sealed envelope, properly addressed, with postage prepaid, shall be deemed compliance with this requirement. If the Secretary of State finds that the report conforms to the requirement of this section, the Secretary of State shall file the report. If the Secretary of State finds that it does not conform, the Secretary of State shall promptly return the report to the limited liability company for any necessary corrections. If the report is corrected to conform to the requirements of this section and returned to the Secretary of State within 30 days from the date on which it was mailed to the limited liability company by the Secretary of State, no penalties for failure to file shall apply.

(d) Any limited liability company that fails or refuses to file its report required hereunder, within 30 days after the receipt of written notice from the Secretary of State of its failure to file the report, shall be subject to a penalty of fifty dollars (\$50), payable to the State of Alabama.

(e) The Secretary of State shall keep an alphabetical list of domestic limited liability companies whose reports have been filed

in the office of the Secretary of State and of foreign limited liability companies which have registered in this state, together with the data contained in the applications for registration filed by foreign limited liability companies.

(f) Whenever there is any change with respect to the information set forth in the report required by this section, the limited liability company shall within 30 days of the change file a statement of the change with the office of the Secretary of State. The requirement of filing any change with the office of the Secretary of State is in addition to any requirement of filing an amendment to the articles of organization imposed under Section 11. No change in the designation of the agent for service of process required to be maintained under subdivision (a)(2) of this section shall be deemed effective until a statement of that change has been filed with the office of the Secretary of State, designating a new agent for service of process together with the new agent's street address. Until the statement of change is filed, service of process upon the previously designated agent for service of process shall continue to be effective.

Section 16. Records To Be Kept; Right of Inspection.

(a) Each limited liability company shall keep at the office referred to in subdivision (1) of subsection (a) of Section 15 the following records:

(1) A current list of the full name and last known business or residence street address of each member, and each manager, if any.

(2) A copy of the filed articles of organization and all amendments thereto, together with executed copies of any powers of attorney pursuant to which any documents have been executed.

(3) Copies of the limited liability company's federal, state, and local income tax returns and reports, if any, for the three most recent years.

(4) Copies of any then effective operating agreements including any amendments thereto.

(5) Copies of any financial statements of the limited, liability company for the three most recent years.

(b) Those records, and any other books and records of the limited liability company, wherever situated, are subject to inspection and copying at the reasonable request, and at the expense of, any member or the member's agent or attorney during regular business hours. Any agent, member, or manager of a limited liability company who, without reasonable cause, refuses to allow any member or the member's agent or attorney to inspect or copy any

books or records of the limited liability company for any proper purpose shall be personally liable to the member for a penalty in an amount not to exceed 10 percent of the fair market value of the membership interest of the member, in addition to any other damages or remedy.

Section 17. Service of Process.

(a) The registered agent appointed by a limited liability company shall be an agent of the limited liability company upon whom any process, notice, or demand required or permitted by law to be served upon the limited liability company may be served.

(b) Whenever a limited liability company fails to appoint or maintain a registered agent in this state, or whenever its registered agent cannot with reasonable diligence be found at the registered office, then process, notice, or demand may be served as provided by the Alabama Rules of Civil Procedure, as amended from time to time.

(c) Nothing contained in this section shall limit or affect the right to serve any process, notice, or demand required or permitted by law to be served upon a limited liability company in any other manner now or hereafter permitted by law.

Section 18. Parties to Actions.

Neither a member nor a manager of a limited liability company is a proper party to proceedings by or against a limited liability company, except where the object is to enforce a member's or manager's rights against or liability to the limited liability company.

ARTICLE 3

RELATIONSHIP OF MEMBERS AND MANAGERS TO THIRD PARTIES

Section 19. Business Transactions of a Member with the Limited Liability Company.

Except as otherwise provided in the operating agreement, a member may lend money to and transact any lawful business with the limited liability company and, subject to other applicable law, have the same rights and obligations with respect thereto as a person who is not a member.

Section 20. Liability of Members to Third Parties. (a) Except as otherwise provided in this act, a member of a limited liability company is not liable under a judgment, decree, or order of a court, or in any other manner, for a debt, obligation, or liability of the limited liability company, whether arising in contract, tort, or otherwise, or for the acts or omissions of any other member, manager, agent, or employee of the limited liability company.

(b) A member may be liable to creditors of the limited liability company for a written agreement to make a contribution to the limited liability company.

(c) A member of a limited liability company may become liable by reason of the member's own acts or conduct.

Section 21. Agency Power of Members and Managers. (a) Except as provided in subsection (b), every member is an agent of the limited liability company for the purpose of its business or affairs, and the act of any member, including, but not limited to, the execution in the name of the limited liability company of any instrument, for apparently carrying on in the usual way the business or affairs of the limited liability company binds the limited liability company, unless the member so acting has, in fact, no authority to act for the limited liability company in the particular matter and the person with whom the member is dealing has knowledge of the fact that the member has no such authority.

(b) If the articles of organization provide that management of the limited liability company is vested in a manager or managers, both of the following conditions apply:

(1) No member, acting solely in the capacity as member, is an agent for the limited liability company.

(2) Every manager is an agent of the limited liability company for the purpose of its business or affairs, and the act of any manager, including, but not limited to, the execution in the name of the limited liability company of any instrument, for apparently carrying on in the usual way the business or affairs of the limited liability company binds the limited liability company, unless the manager so acting has, in fact, no authority to act for the limited liability company in the particular matter and the person with whom the manager is dealing has knowledge of the fact that the manager has no such authority.

(c) An act of a manager or a member which is not apparently for the carrying on in the usual way the business of the limited liability company does not bind the limited liability company unless authorized in accordance with the operating agreement at the time of the transaction or at any other time.

(d) No act of a manager or member in contravention of a restriction on authority shall bind the limited liability company to persons having knowledge of the restriction.

ARTICLE 4

RELATIONSHIP AMONG MEMBERS

Section 22. Management of the Limited Liability Company.

(a) Unless otherwise stated in the articles of organization, the management of the limited liability company is vested in its members. Subject to any provisions in the operating agreement or this act restricting or enlarging the management rights and duties of any person or group or class of persons, the members shall have the right and authority to manage the business or affairs of the limited liability company and to make all decisions with respect thereto.

(b) If the articles of organization vests management of the limited liability company in one or more managers, then the managers shall have the power to manage the business or affairs of the limited liability company as provided in the operating agreement. Except as otherwise provided in the operating agreement, the managers:

(1) Shall be designated, appointed, elected, removed, or replaced by a vote, approval, or consent of more than one-half the number of members.

(2) Need not be members of the limited liability company or natural persons.

(3) Unless they have been earlier removed or have earlier resigned, shall hold office until their successors have been elected and qualified.

Section 23. Limited Liability Company Property.

(a) Property may be acquired, held, and conveyed in the name of the limited liability company. Any estate in real property may be acquired in the name of the limited liability company and title to any estate so acquired shall vest in the limited liability company itself rather than in the members individually.

(b) All property originally contributed to the limited liability company or subsequently acquired by a limited liability company by purchase or otherwise is limited liability company property. A member has no interest in specific limited liability company property.

(c) Except as provided in subsection (d), title to property of the limited liability company that is held in the name of the limited liability company may be transferred by an instrument of transfer executed by any member in the name of the limited liability company.

(d) If the articles of organization provide that management of the limited liability company is vested in a manager or managers, title to property of the limited liability company that is held in the name of the limited liability company may be transferred by an instrument of transfer executed by any manager in the name of the limited liability company; but a member, acting solely as a member, shall not have that authority.

(e) Title to property of the limited liability company that is held in the name of one or more members or managers with an

indication in the instrument transferring title to the property to them of their capacity as members or managers of a limited liability company or of the existence of a limited liability company, even if the name of the limited liability company is not indicated, may be transferred by an instrument of transfer executed by the persons in whose name title is held.

(f) Property transferred under subsections (c), (d), and (e) may be recovered by the limited liability company if it proves that the act of the person executing the instrument of transfer did not bind the limited liability company under Section 21, unless the property has been transferred by the initial transferee or a person claiming through the initial transferee to a subsequent transferee who gives value without having notice that the person who executed the instrument of initial transfer lacked authority to bind the limited liability company.

(g) Title to property of the limited liability company that is held in the name of one or more persons other than the limited liability company, without an indication in the instrument transferring title to the property to them of their capacity as members or managers of a limited liability company or of the existence of a limited liability company, may be transferred free of any claims of the limited liability company or the members by the persons in whose name title is held to a transferee who gives value without having notice that it is property of a limited liability company.

Section 24. Operating Agreements.

(a) The members of a limited liability company may enter into an operating agreement to regulate or establish the affairs of the limited liability company, the conduct of its business, and the relations of its members. An operating agreement may contain any provisions regarding the affairs of a limited liability company and the conduct of its business that are not inconsistent with the laws of this State or the articles of organization.

(b) An operating agreement shall initially be agreed to, in writing, by all of the members. If an operating agreement does not provide for the method by which an operating agreement may be amended, then all of the members shall agree in writing to any amendment.

(c) A court of equity may enforce an operating agreement by injunction or by other relief that the court in its discretion determines to be fair and appropriate in the circumstances. As an alternative to injunctive or other equitable relief, when the provisions of Section 38 are applicable, the court may order dissolution of the limited liability company.

Section 25. Derivative Actions.

(a) A member may bring an action in the right of a limited liability company to recover a judgment in its favor if the members or

managers with authority to do so have refused to bring the action or if an effort to cause those members or managers to bring the action is not likely to succeed.

(b) In a derivative action, the plaintiff shall be a member at the time of bringing the action or have succeeded to the right of a member.

(c) If a derivative action is successful, in whole or in part, or if anything is received by the plaintiff as a result of a judgment, compromise, or settlement of an action or claim, the court may award the plaintiff reasonable expenses, including reasonable attorney's fees, and shall direct the plaintiff to remit to the limited liability company the remainder of those proceeds.

ARTICLE 5

CONTRIBUTIONS AND DISTRIBUTIONS

Section 26. Contributions.

The contributions of a member to the limited liability company may be in cash, property, services previously rendered, or a promissory note or other binding obligation to pay cash, convey property, or to render services.

Section 27. Liability for Contributions.

(a) Except as provided in the articles of organization, a member is obligated to the limited liability company to perform any promise to pay cash or convey property or to render services, even if the member is unable to perform because of death, disability, or any other reason. A member who does not perform such a promise is obligated at the option of the limited liability company to pay cash equal to the amount or value of the portion of the contribution that has not been paid, conveyed, or rendered.

(b) The operating agreement may provide that the interest of any member who fails to make any contribution that the member is obligated to make, or who fails to pay any agreed assessment that the member is obligated to make, shall be subject to a reasonable penalty for such failure. The penalty may take the form of reducing the defaulting member's proportionate interest in the limited liability company, subordinating the member's interest to that of nondefaulting members, a forced sale of the member's interest in compliance with reasonable procedures for notice and disposition, forfeiture of the member's interest on compliance with reasonable procedures for notice, the lending of the amount necessary to meet the member's commitment by other members, affixing of the value of the member's interest by appraisal or by suitable formula and redemption or sale of the member's interest at that value, or other reasonable penalty.

(c) Unless otherwise provided in the operating agreement, the obligation of a member to perform any promise with respect to a contribution to the capital of the limited liability company, or to return money or other property paid or distributed in violation of this act, may be compromised only by consent of all the members. Notwithstanding the compromise, a creditor of a limited liability company who extends credit, or whose claim arises, after filing of the articles of organization or an amendment thereto which, in either case, reflects the obligation, and before the amendment thereof to reflect the compromise, may enforce the original obligation.

Section 28. Sharing of Profits and Losses.

The profits and losses, income, deductions, and credits, and items of income, deduction, and credits of the limited liability company shall be allocated among the members in the manner provided in the operating agreement. If the operating agreement does not so provide, profits and losses, income, deductions, and credits, and items of income, deductions, and credits shall be allocated on the basis of the pro rata value of the contributions made by each member to the extent they have been made and not returned.

Section 29. Interim Distributions of Property; Impairment of Capital.

(a) Except as provided in this section or in the operating agreement, members are entitled to receive distributions from the limited liability company in proportion to their respective rights to share in profits under Section 28.

(b) Subsection (a) shall not apply to any of the following:

(1) Distributions to members on dissociation.

(2) Distributions on dissolution.

(3) Distributions governed by a contrary provision in the operating agreement.

(c) No distribution may be made unless, after the distribution is made, the assets of the limited liability company are sufficient to pay all liabilities of the limited liability company except liabilities to members on account of their contributions.

(d) Unless otherwise provided in the operating agreement, a member has no right to receive and may not be required to accept a distribution in kind.

Section 30. Purchase of Dissociated Member's Interest. (a) The operating agreement of a limited liability company may provide the terms and conditions for the purchase of a dissociated member's interest.

(b) If the operating agreement does not provide the terms and conditions for the purchase of a dissociated member's interest and the event of dissociation is not a transfer of the member's interest to another person, then the member is entitled to receive both of the following:

(1) Any interim distribution to which the member is entitled under the operating agreement.

(2) The buyout price of the member's interest in the limited liability company determined under subsection (c).

(c) The buyout price of a dissociated member's interest is the amount that would have been distributable to the dissociating member if, on the date of dissociation, the assets of the limited liability company were sold at a price equal to the greater of the liquidation value or the value based on a sale of the entire business as a going concern without the dissociated member, and the limited liability company were wound up as of that date. In either case, the sale price of the limited liability company assets shall be determined on the basis of the amount that would be paid by a willing buyer to a willing seller, neither being under any compulsion to buy or sell, and with knowledge of all relevant facts. Interest shall be paid from the date of dissociation to the date of payment.

(d) Damages for wrongful dissociation and all other amounts owing, whether or not presently due, from the dissociated member to the limited liability company, shall be offset against the buyout price. Interest shall be paid from the date the amount owed becomes due to the date of payment.

(e) If no agreement for the purchase of a dissociated member's interest is reached within 120 days after a written demand for payment, the limited liability company shall pay, or cause to be paid, in cash to the dissociated member the amount the limited liability company estimates to be the buyout price determined under subsection (c), with accrued interest, reduced by any offsets under subsection (d), with accrued interest.

(f) If a deferred payment is authorized under subsection (h), the limited liability company may tender a written offer to pay the amount it estimates to be the buyout price and accrued interest, reduced by any offsets under subsection (d), stating the time of payment, the amount and type of security for payment, and the other terms and conditions of the obligation.

(g) The payment or tender required by subsections (e) or (f) shall be accompanied by all of the following:

(1) A statement of limited liability company assets and liabilities as of the date of dissociation.

(2) The latest available limited liability company balance sheet and income statement, if any.

(3) An explanation of how the estimated amount of the payment was calculated.

(4) Written notice that the payment is in full satisfaction of the obligation to purchase unless, within 120 days after date of mailing of the written notice, the dissociated member commences an action to determine the buyout price, any offsets under subsection (d), or other terms of the purchase obligation.

(h) A member who wrongfully dissociates before the expiration of a definite term or the completion of a particular undertaking is not entitled to payment of any portion of the buyout price until the expiration of the term or completion of the undertaking, unless the member establishes to the satisfaction of the court that earlier payment will not cause undue hardship to the business of the limited liability company. A deferred payment shall be adequately secured and bear interest.

(i) A dissociated member may maintain an action against the limited liability company, to determine the buyout price of that member's interest, any offsets under subsection (d), or other terms of the purchase obligation. The action shall be commenced within 120 days after mailing the limited liability company's tender of payment or an offer to pay or within one year after mailing a written demand for payment if no payment or offer to pay is tendered. The court shall determine the buyout price of the dissociated member's interest, any offset due under subsection (d), and accrued interest, and enter judgment for any additional payment or refund. If deferred payment is authorized under subsection (h), the court shall also determine the security for payment and other terms of the obligation to purchase. The court may assess reasonable attorney's fees and the fees and expenses of appraisers or other experts for a party to the action, in amounts the court finds equitable, against any other party, if the court finds that the other party acted arbitrarily, vexatiously, or not in good faith, including the limited liability company's failure to tender payment or an offer to pay or to comply with the requirements of subsection (g).

(j) Except as otherwise provided in the operating agreement, the interest rate for purposes of this section shall be the applicable federal rate as determined from time to time by the United States Treasury pursuant to 26 U.S.C. Section 1274(d) or any successor law.

ARTICLE 6

TRANSFER OF MEMBERSHIP INTERESTS

Section 31. Admission of Additional Members.

(a) After the filing of a limited liability company's original articles of organization, additional members may be admitted as follows:

(1) In the case of a member acquiring an interest directly from the limited liability company, upon compliance with the operating agreement or, if the operating agreement does not provide for the admission of additional members, with the written consent of all members.

(2) In the case of an assignee of an interest of a member, by complying with Section 33.

(b) The effective time of admission of a member to a limited liability company shall be the later of:

(1) The date the limited liability company is formed.

(2) The time provided in the operating agreement, or if no time is provided, then when the person's admission is reflected in the records of the limited liability company.

Section 32. Transferability of Member's Interest.

(a) Except as otherwise provided in the operating agreement:

(1) A membership interest in a limited liability company is assignable in whole or in part.

(2) An assignment of a member's interest in a limited liability company does not of itself dissolve the limited liability company or entitle the assignee to exercise any management rights.

(3) An assignment only entitles the assignee to the financial rights of the assignor to the extent assigned.

(4) A member who assigns the member's interest in a limited liability company does not cease to be a member until the assignee is substituted as provided in Section 33.

(b) A limited liability company, in the articles of organization or in the operating agreement, may provide that a member's interest in the limited liability company may be evidenced by a certificate of limited liability company interest issued by the limited liability company. Any provision for the assignment or transfer of a limited liability company interest represented by such a certificate shall be consistent with this act.

(c) Any purported transfer of a member's interest in violation of this section is void.

Section 33. Right of Assignee To Become Member.

(a) Except as otherwise provided in the operating agreement:

(1) An assignee of an interest in a limited liability company may become a member only if the other members unanimously

consent. The consent of a member may be evidenced in any manner specified in the operating agreement, but in the absence of such a specification, consent shall be evidenced by a written instrument, dated and signed by the member.

(2) The assignor of a membership interest is not released from liability to the limited liability company under Section 27, whether or not the assignee becomes a member.

(3) A member who assigns the member's entire interest in the limited liability company ceases to be a member or to have the power to exercise any rights of a member when any assignee of the interest becomes a member with respect to the assigned interest.

(b) An assignee who has become a member has, to the extent assigned, the rights and powers, and is subject to the restrictions and liabilities, of a member under the articles of organization, any operating agreement, and this act. An assignee who becomes a member also is liable for the obligations of the assignor to make contributions as provided in Section 27. The assignee is not obligated for liabilities that are unknown to the assignee at the time of becoming a member.

Section 34. Power of Estate of Deceased or Incompetent Member.

If a member who is an individual dies or if a court of competent jurisdiction adjudges a member to be incompetent to manage the member's person or property, the member's personal representative, conservator, or other legal representative may exercise all the member's financial rights for the purpose of settling the member's estate or administering the member's property, including any power the member had to transfer the membership interest. **Except as otherwise provided in the operating agreement**, if a member is a corporation, limited liability company, trust, partnership, custodianship, or other entity and is dissolved or terminated, the rights and powers of that member may be exercised by the legal representative or successor of that member.

Section 35. Member's Financial Rights Subject to Charging Order.

(a) On application to a court of competent jurisdiction by any judgment creditor of a member or assignee, the court may charge the interest of the member or assignee with payment of the unsatisfied amount of the judgment with interest. To the extent so charged, the judgment creditor has only the rights of an assignee of a financial interest. This section shall be the sole and exclusive remedy of a judgment creditor with respect to the judgment debtor's membership interest.

(b) This act does not deprive any member of the benefit of any exemption laws applicable to the member's limited liability company interest.

Section 36. Events of Dissociation.

(a) A person ceases to be a member of a limited liability company upon the occurrence of one or more of the following events:

(1) The member dissociates by voluntary act from the limited liability company as provided in subsection (d).

(2) The member ceases to be a member of the limited liability company as provided in Section 33.

(3) The member is removed as a member in either of the following manners:

a. In accordance with the operating agreement.

b. Subject to contrary provisions in the operating agreement, when the member assigns all of the member's interest in the limited liability company, by an affirmative vote of a majority in number of the members who have not assigned their interests.

(b) Subject to contrary provisions in the operating agreement, or written consent of all members at the time, a person ceases to be a member upon the occurrence of one or more of the following events listed in the following subdivision or paragraphs:

(1) The member:

a. Makes an assignment for the benefit of creditors.

b. Files a voluntary petition in bankruptcy.

c. Is adjudicated bankrupt or insolvent.

d. Files a petition or answer seeking for the member any reorganization, arrangement, composition, readjustment, liquidation, dissolution, or similar relief under any statute, law, or regulation.

e. Files an answer or other pleading admitting or failing to contest the material allegations of a petition filed against the member in any proceeding in the nature of the proceedings listed in paragraph d.

f. Seeks, consents to, or acquiesces in the appointment of a trustee, receiver, or liquidator of the member or of all or any substantial part of the member's properties.

(2) Any of the following time periods have elapsed:

a. 120 days have elapsed after the commencement of any proceeding against the member seeking reorganization, arrangement,

composition, readjustment, liquidation, dissolution, or similar relief under any statute, law, or regulation, unless the proceeding has been dismissed.

b. 90 days have elapsed after the appointment, without the consent of the member, of a trustee, receiver, or liquidator of the member or of all or any substantial part of the member's properties, unless the appointment is vacated or stayed.

c. 90 days have elapsed after the expiration of any stay, unless the appointment is vacated.

(3) In the case of a member who is an individual:

a. The member dies.

b. A court of competent jurisdiction adjudicates the member incompetent to manage the member's person or property.

(4) In the case of a member who is a trustee or is acting as a member by virtue of being a trustee of a trust, the termination of the trust, but not merely the substitution of a new trustee.

(5) In the case of a member that is a separate limited liability company, the dissolution and commencement of winding up of the separate limited liability company.

(6) In the case of a member that is a corporation:

a. The filing of articles of dissolution or the equivalent for the corporation.

b. The revocation of its charter and the lapse of 90 days after notice to the corporation of revocation without a reinstatement of its charter.

(7) In the case of an estate, the distribution by the fiduciary of the estate's entire interest in the limited liability company.

(8) In the case of a limited liability company performing professional services, at the time a member's license or registration to perform the professional services is terminated or suspended for a period of more than 12 months.

(c) The members may provide in the operating agreement for other events the occurrence of which result in a person ceasing to be a member of the limited liability company.

(d) Unless the operating agreement provides that a member has no power to dissociate by voluntary act from a limited liability company, the member may do so at any time by giving notice as provided in the operating agreement, or, if there is no such provision, 30 days written notice to the other members. If the member

has the power to dissociate but the dissociation is a breach of the operating agreement, or the dissociation occurs as a result of otherwise wrongful conduct of the member, the limited liability company may recover damages from the dissociating member for breach of the operating agreement, including the reasonable cost of obtaining replacement for the services the dissociated member was obligated to perform. The limited liability company may offset the damages against the amount otherwise distributable to the member, as provided in Section 30, in addition to pursuing any remedies provided for in the operating agreement or otherwise available under applicable law. Unless otherwise provided in the operating agreement, in the case of a limited liability company for a definite term or particular undertaking, a dissociation by a member before the expiration of that term is a breach of the operating agreement.

ARTICLE 7

DISSOLUTION

Section 37. Dissolution.

A limited liability company is dissolved and its affairs shall be wound up upon occurrence of the first of the following events:

(1) Events specified in the articles of organization or an operating agreement.

(2) Written consent of all members to dissolve.

(3) An event of dissociation of a member, unless both the following apply:

a. There are at least two remaining members or at least one remaining member and a new member is admitted.

b. The legal existence and business of the limited liability company is continued by the written consent of all the remaining members within 90 days after the occurrence of the event of dissociation or as otherwise stated in the articles of organization.

(4) When the limited liability company is not the successor limited liability company in the merger or consolidation with one or more limited liability companies or other entities.

(5) Entry of a decree of judicial dissolution under Section 38.

Section 38. Judicial Dissolution.

On application by or for a member, the circuit court for the county in which the articles of organization are filed may decree dissolution of a limited liability company whenever it is not reasonably practicable to carry on the business in conformity with the articles of organization or operating agreement.

Section 39. Winding Up.

(a) Except as otherwise provided in the articles of organization or the operating agreement, the members who have not wrongfully dissolved a limited liability company may wind up the limited liability company's business and affairs.

(b) A person winding up a limited liability company's business may: Preserve the company business or property as a going concern for a reasonable time; prosecute and defend actions and proceedings, whether civil, criminal, or administrative; settle and close the limited liability company's business; dispose of and transfer property; discharge the limited liability company's liabilities; distribute the assets of the limited liability company pursuant to Section 41; and perform other necessary and appropriate acts.

Section 40. Survival of Remedy After Dissolution.

(a) A dissolved limited liability company continues its existence but may not carry on any business except that necessary or appropriate to wind up and liquidate its business and affairs.

(b) Dissolution of a limited liability company does not:

- (1) Transfer title to the limited liability company assets.
- (2) Terminate or suspend a proceeding pending by or against the limited liability company on the effective date of dissolution.
- (3) Terminate the authority of the registered agent of the limited liability company.

Section 41. Distribution of Assets upon Dissolution.

Upon the winding up of a limited liability company, the assets of the limited liability company shall be distributed in the following order of priority.

(1) To creditors (including members who are creditors to the extent allowed by Section 19 or otherwise permitted by law), in order of priority as provided by law, except those liabilities to members of the limited liability company for interim distributions or on account of their contributions.

(2) Except as otherwise provided in the articles of organization or the operating agreement, to members of the limited liability company and former members for interim distributions and in respect of their contributions.

(3) Except as otherwise provided in the articles of organization or the operating agreement, to members first for the return of their contributions and second with respect to their interests in the limited liability company, in the proportions in which the members share in distributions.

Section 42. Articles of Dissolution.

(a) After the dissolution of the limited liability company pursuant to Section 37, the limited liability company shall file articles of dissolution in the office of the probate judge of the county in which the articles of organization were filed. The articles of dissolution shall set forth:

- (1) The name of the limited liability company.
- (2) The date of filing its articles of organization.
- (3) The reason for filing the articles of dissolution.
- (4) The effective date of the articles of dissolution, which shall be a date certain, if they are not to be effective immediately.
- (5) Any other information the members or managers filing the articles deem appropriate.

(b) The articles of dissolution and two copies shall be delivered to the judge of probate. If the judge of probate finds that the articles of dissolution conform to law and that all fees prescribed in this act have been paid, the judge of probate shall:

- (1) Endorse on the articles of dissolution and on each copy the word "Filed" and the hour, day, month, and year of the filing.
- (2) File the articles of dissolution in the office of the judge of probate and certify two copies.
- (3) Issue a certificate of dissolution to which a certified copy of the articles of dissolution shall be affixed, and return the certificate of dissolution with the certified copy of the articles of dissolution affixed to the representative of the dissolved limited liability company.
- (4) Within 10 days after the issuance of a certificate of dissolution, transmit to the Secretary of State a certified copy of the articles of dissolution, indicating the place, date, and time of filing of the certificate.

Section 43. Known Claims Against Dissolved Limited Liability Company.

(a) A dissolved limited liability company may dispose of the known claims against it by filing articles of dissolution pursuant to Section 42 and following the procedure described in this section.

(b) The dissolved limited liability company shall notify its known claimants in writing of the dissolution at any time after the filing of its articles of dissolution. The written notice shall:

- (1) Describe information that must be included in a claim.

(2) Provide a mailing address where a claim may be sent.

(3) State the deadline, which may not be less than 120 days from the date of mailing of the written notice, by which the dissolved limited liability company shall receive the claim.

(4) State that the claim shall be barred if not received by the deadline.

(c) A claim against the dissolved limited liability company is barred in either of the following circumstances:

(1) If a claimant who was given written notice under subsection (b) does not deliver the claim to the dissolved limited liability company by the deadline.

(2) If a claimant whose claim was rejected in writing by the dissolved limited liability company does not commence a proceeding to enforce the claim within 180 days from the date of the rejection notice.

(d) For purposes of this section, "claim" does not include a contingent liability or a claim based on an event occurring after the effective date of dissolution.

Section 44. Unknown Claims Against Dissolved Limited Liability Company.

(a) A dissolved limited liability company may publish notice of its dissolution which requests that persons with claims against the limited liability company present them in accordance with the notice.

(b) The notice shall:

(1) Be published one time in a newspaper of general circulation in the county where the dissolved limited liability company's principal office (or, if none in this state, its registered office) is or was last located.

(2) Describe the information that shall be included in a claim and provide a mailing address where the claim may be sent.

(3) State that articles of dissolution have been filed for the limited liability company.

(4) State that a claim against the limited liability company shall be barred unless a proceeding to enforce the claim is commenced within two years after the publication of the notice.

(c) If the dissolved limited liability company publishes a newspaper notice in accordance with subsection (b) and files articles of dissolution pursuant to Section 42, the claim of each of the following claimants is barred unless the claimant commences a proceeding to

enforce the claim against the dissolved limited liability company within two years after the publication date of the newspaper notice:

(1) A claimant who did not receive written notice under Section 43.

(2) A claimant whose claim was timely sent to the dissolved limited liability company but not acted on.

(3) A claimant whose claim is contingent or based on an event occurring after the effective date of dissolution.

(d) A claim may be enforced under this section:

(1) Against the dissolved limited liability company, to the extent of its undistributed assets.

(2) If part or all the limited liability company assets have been distributed in liquidation, against a member of the dissolved limited liability company to the extent of the member's pro rata share of the claim or the assets of the limited liability company distributed to the member in liquidation, whichever is less. If a member's total liability for all claims determined under the preceding sentence exceeds the total amount of assets distributed to the member in liquidation, then the member's liability on each claim shall be limited to an amount determined by multiplying the assets distributed in liquidation by a fraction, the numerator of which is the claim and the denominator of which is the total of all the claims.

ARTICLE 8

PROFESSIONAL SERVICES

Section 45. Special Rules for Limited Liability Companies Performing Professional Services.

(a) Every individual who renders professional services as a member or as an employee of a limited liability company shall be liable: for any negligent or wrongful act or omission in which the individual personally participates to the same extent the individual would be liable if the individual rendered the services as a sole practitioner.

(b) The personal liability of a member, manager, or other employee of any limited liability company engaged in providing professional services shall be no greater than that of a shareholder, employee, director, or officer of a corporation organized under the Alabama Business Corporation Act or any successor act.

(c) The personal liability of a member, manager, or employee of a foreign limited liability company shall be determined under the law of the jurisdiction in which it is organized.

(d) Nothing in this act shall restrict or limit in any manner the authority or duty of a licensing authority with respect to individuals rendering a professional service within the jurisdiction of the licensing authority. Nothing in this act shall restrict or limit any law, rule, or regulation pertaining to standards of professional conduct.

(e) Nothing in this act shall limit the authority of a licensing authority to impose requirements in addition to those stated in this act on any limited liability company or foreign limited liability company rendering professional services within the jurisdiction of the licensing authority.

(f) A limited liability company organized to render professional services under this act may render only one specific type of professional services, and services ancillary to them, and may not engage in any business other than rendering the professional services which it was organized to render, and services ancillary to them. In addition, a limited liability company organized to render, professional services shall be subject to the restrictions imposed on professional corporations by the Revised Alabama Professional Corporation Act Sections 10-4-380 through 10-4-404 inclusive, Code of Alabama 1975, as amended from time to time.

(g) A limited liability company organized to render professional services, domestic or foreign, may render professional services in Alabama only through individuals permitted to render those services in Alabama; but nothing in this act shall be construed to require that any individual who is employed by a limited liability company rendering professional services be licensed to perform services for which no license is otherwise required or to prohibit the rendering of professional services by a licensed individual acting in an individual capacity, notwithstanding that the individual may be a member, manager, employee or agent of a domestic or foreign limited liability company rendering professional services.

(h) A member's interest in a limited liability company organized to render professional services may be voluntarily transferred only to a person who is licensed or registered to render the professional services for which the company was organized.

(i) If a membership interest is transferred by gift or inheritance to a person who is not licensed or registered to render the professional services for which the limited liability company, was organized or if a member's license or registration to perform the professional services for which the limited liability company, was organized is terminated or suspended for a period of more than 12 months, the person or member shall not be treated as owning a

financial interest or an ownership interest in the limited liability company and shall be entitled only to receive the buyout price of the membership interest in accordance with Section 30.

ARTICLE 9

FOREIGN LIMITED LIABILITY COMPANIES

Section 46. Foreign Limited Liability Companies.

(a) Subject to the Constitution of Alabama, the laws of the state or other jurisdictions under which a foreign limited liability company is organized govern its organization, its internal affairs, and the liability of its members.

(b) Subject to the Constitution of Alabama, a foreign limited liability company may not be denied registration by reason of any difference between those laws and the laws of this state; provided, however, that no foreign limited liability company shall be allowed to carry on in this state any business of a character that may not lawfully be carried on by a domestic limited liability company.

Section 47. Registration.

(a) Before transacting business in this state, a foreign limited liability company shall register with the Secretary of State. To register, a foreign limited liability company shall submit to the Secretary of State, in duplicate, on forms furnished by the Secretary of State, an application for registration as a foreign limited liability company, signed by an authorized member or manager setting forth the following:

(1) The name of the foreign limited liability company, and if different, the name under which it proposes to register and transact business in this state.

(2) The state or other jurisdiction where it was formed, the name and address in that state or other jurisdiction where its articles of organization (or equivalent document) and all amendments thereto are on file, and the date of its formation.

(3) The general character of the business it proposes to transact in this state.

(4) The name and address of an agent for service of process on the foreign limited liability company. The agent shall satisfy and continue to satisfy the requirements applicable to registered agents of domestic limited liability companies under Section 15.

(5) The street address of the office required to be maintained in the state or other jurisdiction of its organization by the laws of that state or other jurisdiction, or, if not so required, of the principal office of the foreign limited liability company.

(6) A statement that the foreign limited liability company consents to service of process on it by registered mail addressed to it at the address specified in subdivision (5), if the agent appointed under subdivision (4) cannot be found or served with the exercise of reasonable diligence.

(b) The execution by a member or manager of an application for registration as a foreign limited liability company, or the execution of any certificate of amendment to such an application under Section 50, constitutes an affirmation that the facts therein are true under penalties of perjury prescribed by Section 13A-10-103 or its successor.

(c) A foreign limited liability company shall not be deemed to be transacting business in this state for the purposes of this section solely by reason of offers or sales of interests in the limited liability company in this state.

Section 48. Issuance of Registration.

(a) If the Secretary of State finds that an application for registration conforms to law and all requisite fees have been paid, the Secretary of State shall:

(1) Endorse on the application the word "Filed" and the month, day, and year of the filing.

(2) File in the Office of the Secretary of State a duplicate original of the application.

(3) Issue a certificate of registration to transact business in this state, effective as of the date the application was filed with the Office of the Secretary of State.

(b) The certificate of registration, together with a duplicate original of the application, shall be returned to the person, or a representative of the person, who filed the application.

(c) Upon the issuance of a certificate of registration by the Secretary of State, the foreign limited liability company shall be authorized to transact any business in this state:

(1) That is consistent with the general character of business set forth in its application;

(2) That may be done lawfully in this state by a limited liability company organized under the laws of this state; and

(3) That the foreign limited liability company is authorized to do in the state or other jurisdiction where it was organized.

The authorization shall relate back to and be deemed effective as of the date the application was filed with the Office of the Secretary of State.

Section 49. Name.

A foreign limited liability company may register with the Secretary of State under any name (whether or not it is the name under which it is registered in the jurisdiction where it is organized) provided that the name satisfies the requirements of Section 5 and is a name that could be adopted by a domestic limited liability company.

Section 50. Changes and Amendments.

If any statement in the application for registration of a foreign limited liability company was false when made or any arrangements or other facts described have changed, making the application inaccurate in any respect, the foreign limited liability company shall promptly file in the Office of the Secretary of State a certificate correcting the statement.

Section 51. Cancellation of Registration.

A foreign limited liability company may cancel its registration by filing with the Secretary of State a certificate of cancellation signed by a duly authorized member or manager. A cancellation does not terminate the consent to service of process on the foreign limited liability company as provided in Section 47 with respect to causes of action arising out of business transacted within this state.

Section 52. Transacting Business Without Registration.

(a) A foreign limited liability company transacting business in this state may not maintain any action, suit, or proceeding in any court of this state until it has registered in this state.

(b) The failure of a foreign limited liability company to register in this state does not impair the validity of any contract or act of the foreign limited liability company or prevent: the foreign limited liability company from defending any action, suit, or proceeding in any court of this state.

(c) A foreign limited liability company, by transacting business in this state without registration, shall be deemed to consent to service of process with respect to causes of action arising out of business transacted in this state by registered mail addressed to the foreign limited liability company at the office required to be maintained in the state or other jurisdiction where it is organized, or, if not so required, at the principal office of the limited liability company.

(d) The liability of a member or members of a foreign limited liability company is governed by the laws of the state or other jurisdictions where it is organized, and any limitations on that liability are not waived solely by reason of having transacted business in Alabama without registration.

Section 53. Action by Attorney General.

The Attorney General may bring an action to restrain a foreign limited liability company from transacting business in this state in violation of this act.

ARTICLE 10

MERGER AND CONSOLIDATION

Section 54. Merger and Consolidation.

(a) Pursuant to any agreement, a domestic limited liability company may merge or consolidate with or into one or more limited liability companies or other business entities formed or organized under the laws of this state, any other state, the United States, or any foreign jurisdiction, with the domestic limited liability company or the other business entity being the surviving or resulting domestic limited liability company or other business entity. Except as otherwise specifically provided for in the operating agreement, a merger shall be approved by each domestic limited liability company which is to merge by all the members at the time approval of the merger is voted on.

(b) Notwithstanding prior approval, an agreement of merger may be terminated prior to filing articles of merger with the Secretary of State or amended pursuant to a provision for the termination or amendment contained in the agreement of merger.

Section 55. Requirements for Articles of Merger; Effective Date.

(a) If a domestic limited liability company is merging under this act, the domestic limited liability company or other business entity surviving or resulting from the merger shall file articles of merger in the Office of the Secretary of State. If a domestic limited liability company is filing the articles of merger, the articles of merger shall be signed by at least one member of the domestic limited liability company, and if another business entity is filing the articles of merger, the articles of merger shall be signed by a person authorized by the other business entity. The articles of merger shall state all of the following:

(1) The name, jurisdiction, and date of formation or organization of each of the domestic limited liability companies or other business entities that are to merge.

(2) That an agreement of merger has been approved and executed by each of the domestic limited liability companies or other business entities that are to merge.

(3) The name of the surviving or resulting domestic limited liability company or other business entity.

(4) The future effective date or time (which shall be a date or time certain) of the merger if it is not to be effective upon the filing of the articles of merger.

(5) That the agreement of merger is on file at a place of business of the surviving or resulting domestic limited liability company or other business entity, and shall state the street address of that place of business.

(6) That a copy of the agreement of merger will be furnished by the surviving or resulting domestic limited liability company or other business entity, on request and without cost, to any member of any domestic limited liability company or any person holding an interest in any other business entity which is a party to the merger.

(7) If the surviving or resulting entity is not a domestic limited liability company or limited partnership or other business entity organized under the laws of this state, a statement that the foreign limited liability company consents to service of process on it by registered mail addressed to the foreign limited liability company at the office required to be maintained in the state or other jurisdiction where it is organized by the laws of that state or, other jurisdiction, or, if not so required, at its principal office, if it has not appointed an agent under Section 47 or if that agent cannot be found or served with the exercise of reasonable diligence.

(b) A merger shall be effective upon the filing in the Office of the Secretary of State of the articles of merger unless a future effective date or time is provided in the articles of merger, in which event the merger shall be effective at the future date or time specified.

Section 56. Vesting of Certain Rights, Privileges, Powers, Property, Liabilities and Duties.

(a) When any merger has become effective under this act, for all purposes of the laws of the state, all the rights, privileges, and powers of each of the domestic limited liability companies and other business entities that have merged, and all property, real, personal, and mixed, and all debts due to any of the domestic limited liability companies and other business entities, as well as all other things and causes of action belonging to each of the domestic limited liability companies and other business entities, shall be vested in the surviving or resulting domestic limited liability company or other business entity, and shall thereafter be the property of the surviving or resulting domestic limited liability company or other business entity as they were of each of the domestic limited liability companies and other business entities that have merged. The title to any real property vested by deed or otherwise in any of the domestic limited liability companies and other business entities shall not revert or be in any way impaired by reason of this act.

(b) All rights of creditors and all liens upon any property of any of the domestic limited liability companies and other business entities shall be preserved unimpaired, and all debts, liabilities and duties of each of the domestic limited liability companies and other business entities that have merged shall attach to the surviving or resulting domestic limited liability company or other business entity, and may be enforced against it to the same extent as if the debts, liabilities, and duties had been incurred or contracted by it.

(c) Unless otherwise provided in the articles of merger, a merger, of a domestic limited liability company, including a domestic limited liability company which is not the surviving or resulting entity in the merger, shall not require the domestic limited liability company to wind up its business and affairs, or pay its liabilities and distribute its assets.

Section 57. Recording of Articles of Merger; Effect When Secretary of State Files Articles; Copy of Certified Articles Conclusive Evidence of Matters.

The articles of merger required by this act to be filed with the Secretary of State shall also be recorded in the office of the judge of probate in the county in which the limited liability company is required to file articles of organization and in each county in which a limited liability company which is a party to the merger is required to file articles of organization; provided, however, that when the articles are filed by the Secretary of State, the matters covered by the articles shall be effective as stated therein, and a copy of the articles certified by the Secretary of State shall be conclusive evidence of the matters covered therein.

Section 58. Applicability of Article 5 of Chapter 2A of Title 10.

To the extent applicable, the provisions and requirements of Article 5 (commencing with Section 10-2A-140) of Chapter 2A of Title 10, Code of Alabama 1975, relating to mergers of corporations, shall apply to mergers between corporations, domestic limited liability companies, and other business entities as defined by this act. Domestic limited liability companies and other business entities shall be treated as corporations for the purposes of applying the procedures, requirements, and effects prescribed in that Article 5.

ARTICLE 11

FEEES

Section 59. Fees, Charges, and Penalties to be Collected by Judge of Probate and Secretary of State.

The judge of probate or the Secretary of State, as the case may be, shall charge and collect in accordance with the provisions of this act:

(a) Fees for filing documents and issuing certificates.

(b) Miscellaneous charges and penalties imposed by this act.

Section 60. Fees for Filing Documents and Issuing Certificates; Secretary of State Limited Liability Company Fund Created; Deposits and Expenditures; Deposits to State General Fund.

(a) In lieu of all other charges and fees, the following fees shall be collected in accordance with the provisions of this act:

(1) Filing articles of organization, forty dollars (\$40) for the State of Alabama and thirty-five dollars (\$35) for the judge of probate.

(2) Filing articles of amendment and issuing a certificate of amendment, ten dollars (\$10) for the judge of probate.

(3) Filing restated articles of organization, twenty-five dollars (\$25) for the judge of probate and ten dollars (\$10) for the State of Alabama.

(4) Filing a report of the name and address of registered agent or a statement of change of address of registered office or change of registered agent, or both, five dollars (\$5) for the State of Alabama.

(5) Filing articles of dissolution, five dollars (\$5) for the judge of probate and ten dollars (\$10) for the State of Alabama.

(6) Filing an application of a foreign limited liability company for an amended certificate of authority to transact business in this state and issuing an amended certificate of authority, twenty-five dollars (\$25) for the State of Alabama.

(7) Filing a certificate of cancellation of a foreign limited liability company and issuing a certificate, twenty dollars (\$20) for the State of Alabama.

(8) Filing a copy of the articles of merger as required by Section 57, five dollars (\$5) plus fifty cents (.50) per page in excess of five pages to the judge of probate.

(9) Filing the application for registration as a foreign limited liability company and issuing the certificate of registration to transact business in this state, seventy-five dollars (\$75) for the State of Alabama.

(10) Filing any other statement or report of a domestic or foreign limited liability company, ten dollars (\$10) for the State of Alabama.

(b) When appropriate two checks shall accompany the document, one payable to the judge of probate for all charges of the judge of probate, and one payable to the State of Alabama covering all charges for the Secretary of State. The check for the Secretary of State will be forwarded by the judge of probate to the Secretary of State.

(c) There is created in the State Treasury a fund to be known and designated as the Secretary of State Limited Liability Companies Fund. All funds, fees, charges, costs, and collections accruing to or collected by the Office of the Secretary of State under the provisions of this act, and any other fees collected by the Secretary of State relating to limited liability companies shall be deposited into the State Treasury to the credit of the fund except as provided in subsection (e) below.

(d) All funds now or hereafter deposited in the State Treasury to the credit of the Secretary of State Limited Liability Companies Fund shall not be expended for any purpose whatsoever unless the funds have been allotted and budgeted in accordance with the provisions of Article 4 (commencing with Section 41-4-80) of Chapter 4 of Title 41, Code of Alabama 1975, and only in the amounts and for the purposes provided by the Legislature in the general appropriation bill or this section.

(e) An amount equal to 80 percent of total collections by the Secretary of State for each fiscal year in relation to limited liability companies during the fiscal year shall be deposited to the credit of the State General Fund.

(f) The fees herein imposed for the office of the judge of probate shall be charged and paid into the appropriate county treasury or to the judge of probate as may be authorized or required by law.

Section 61. Miscellaneous Charges.

(a) The judge of probate shall charge and collect for furnishing a certified copy of any document, instrument, or paper relating to a limited liability company, one dollar and fifty cents (\$1.50) per page and one dollar and fifty cents (\$1.50) for the certificate and affixing the seal.

(b) The Secretary of State shall charge and collect:

(1) For furnishing a certified copy of any document, instrument, or paper relating to a limited liability company, one dollar (\$1) per page and five dollars (\$5) for the certificate and affixing the seal.

(2) At the time of any service of process on the Secretary of State as resident agent of a limited liability company, the amount prescribed by law or rule of court.

(3) For requests of immediate expedition by the Secretary of State regarding document filings, certifications, and certificates in addition to required fees, a ten dollar (\$10) surcharge shall be imposed.

Section 61. This act shall become effective October 1, 1993.

Approved May 20, 1993

Time: 5:58 P.M.

Act No. 93-725

S. 672 – Senator Windom

AN ACT

To amend Section 5-2A-3, Code of Alabama 1975, relating to the appointment of the Superintendent of Banking, to provide further for the expiration of the term of office.

Be It Enacted by the Legislature of Alabama:

Section 1. Section 5-2A-3, Code of Alabama 1975, is amended to read as follows:

“§5-2A-3.

“The state banking department shall be in the charge of the superintendent, who shall be the chief executive officer of the department. The superintendent shall be a person of good character and shall be neither directly nor indirectly interested in, nor borrow money from, a bank chartered under the laws of this state. Debts of the superintendent existing at the time of his or her appointment with banks chartered under the laws of this state may not be extended or renewed. The superintendent shall be appointed by the governor by and with the consent of the senate. The term of office of the superintendent shall expire on the first day of February after the expiration of the term of office of the governor making the appointment. If for any reason there should be a vacancy in the office while the senate is not in session, the governor shall appoint a superintendent and the superintendent shall hold office and exercise the powers conferred by law upon the office until the senate meets and passes on the appointment. If the appointment is disapproved by the senate, the appointee shall vacate the office immediately and another appointment shall be made by the governor in like manner until an appointment is confirmed by the senate. To be eligible for appointment as superintendent, a person shall have had at least five years’ experience in the 10 years next preceding the appointment either as an officer of an Alabama bank or an examiner or other officer in a federal or state bank supervisory agency, including the office of the comptroller of the currency, the federal reserve system, the federal deposit insurance corporation, and the banking departments of the various states or other equivalent experience for at least five years in the 10 years next preceding the appointment.”

Section 2. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved May 20, 1993

Time: 5:59 P.M.

Act No. 93-726

H.J.R. 481 –Reps. Kvalheim, Gaston, Penry,
McMillan

HOUSE JOINT RESOLUTION

MOURNING THE DEATH OF NAN BOONE ARENDALL OF
MOBILE, ALABAMA.

WHEREAS, it is with deep sadness and regret that the Alabama Legislature records the lamentable death of Nan Boone Arendall of Mobile, Alabama, on March 18, 1993; and

WHEREAS, Nan Arendall, a longtime resident of Mobile, was a well-known philanthropist and founder of the Point Clear Tennis Club, which she built and operated as a private facility, and where she encouraged and made it financially possible for countless youth to learn and enjoy the game of tennis; and

WHEREAS, she gave the tennis facility to Bayside Academy in Daphne in 1989, “ensuring as a lasting legacy, tennis as a part of a young person’s opportunity”; and

WHEREAS, a native of Owensboro, Kentucky, Mrs. Arendall was a member of the Mobile Junior League, mystic societies, and of many civic and cultural organizations; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That grievously mourned is the death of Nan Boone Arendall of Mobile, Alabama, and deepest sympathy is extended to her husband, Charles B. Arendall, Jr.; to her four daughters, Boone McGinley, Barclay A. Manley, Elizabeth A. Tilney, and Kathryn A. Weller, and nine grandchildren; and to other family members for whom a copy of this resolution of sincere condolence shall be provided.

Approved May 21, 1993

Time: 2:45 P.M.

Act No. 93-727

H.J.R. 487 – Reps. Thomas, Cosby

HOUSE JOINT RESOLUTION

COMMENDING W. WYATT SHORTER ON THE OCCASION
OF HIS RETIREMENT.

WHEREAS, W. Wyatt Shorter, a native of Virginia, attended Virginia Military Institute, and received a Master’s degree in pulp and paper technology from the University of Maine; and

WHEREAS, a veteran and officer in the United States Marine Corps, Mr. Shorter served in management positions of Union Camp Corporation for 21 years, including 10 years as Resident Manager of the company's facility in Prattville, Alabama; and

WHEREAS, in a continuation of his accomplished career, Mr. Shorter became president of MacMillan Bloedel Inc. in 1978 and, after serving in that capacity for 15 years, has announced his retirement; and

WHEREAS, Mr. Shorter, a widely acknowledged leader in the business community of Alabama, has served as Chairman of the Alabama Alliance of Business and Industry, as President of the Alabama Chamber of Commerce, and was a founder and first Chairman of the Alabama Pulp and Paper Council; and

WHEREAS, additionally, Mr. Shorter has extended his endeavors to include community leadership and involvement in numerous civic and charitable organizations, and has provided support to many programs and projects to the benefit and well-being of the citizens of the State of Alabama; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That in recognition and with deep appreciation, we hereby commend W. Wyatt Shorter for his longtime and on-going contributions to the business, social and public welfare of Alabama, and do further direct that he receive a copy of this resolution, with best wishes for many happy years of retirement with his family.

Approved May 21, 1993

Time: 2:46 P.M.

Act No. 93-728

H.J.R. 488 – Reps. Holley, Flowers, Anderson, Barnes, Beasley, Biddle, Black (L), Black (M), Blakeney, Bowling, Box, Bryant, Bugg, Burke, Buskey, Butler, Cagle, Campbell, Carns, Carothers, Carter, Clark (J), Clark (W), Clay, Collins, Cosby, Crow, Cullins, Curry, Dolbare, Drake, Ford, Freeman, Fuller, Gaines, Gaston, Goodwin, Gullatt, Hall, Hamilton, Hammett, Haney,

Harper, Harvey, Hawkins,
 Haynes, Higginbotham, Hill,
 Hogan, Holladay, Holmes,
 Hooper, Johnson, Kennedy,
 Knight (A), Knight (J),
 Kvalheim, Laird, Layson,
 Letson, Lindsey, Mathis,
 McClain, McDaniel, McDowell,
 McKee, McMillan, Melton,
 Mikell, Millican, Morrow,
 Morton, Newton (C),
 Newton (D), Parker (P),
 Parker (T), Payne, Penry,
 Perdue, Petelos, Poole, Powell,
 Rich, Richardson, Rockhold,
 Rogers (F), Rogers (J),
 Sanderford, Sanderson,
 Smith (C), Smith (R), Spratt,
 Starkey, Thomas, Turner,
 Turnham, Venable, Walker,
 Warren, White, Williams, Willis,
 Zoghby

HOUSE JOINT RESOLUTION

HONORING CAROLYN H. GIBSON ON THE OCCASION OF
 HER RETIREMENT.

WHEREAS, on June 1, 1993, Carolyn H. Gibson, Director of Placement, Troy State University, will retire after a twenty-three year distinguished career in education; and

WHEREAS, Carolyn Gibson has served as president, board member, vice president, treasurer, as well as chair of numerous committees of the Southern College Placement Association with over 1,000 members; she has also held key leadership positions in the Alabama College Co-op and Placement Association, and developed procedures and standards, including financial, ethical standards, awards, and marketing for the association; she was the founding chair of the Miss Troy State University Scholarship Pageant; she has received the accolades of her peers for her inspiration and direction as chapter advisor for Gamma Sigma Chapter of the Alpha Gamma Delta International Sorority, and as president and treasurer of the Alumnae Chapter; and she established innovative administrative procedures as Panhellenic Advisor and women's housing assistant at the university; and

WHEREAS, Carolyn Gibson has always reached out beyond the institution and served the needs of her entire community by

her participation in numerous fund-raising, advisory, educational, civic, and religious endeavors to improve the quality of life for all and she is a sterling example for our youth; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That we most highly commend Ms. Carolyn Gibson on her distinguished career at Troy State University and direct that a copy of this resolution be provided for Ms. Gibson so that she may know of our high esteem and appreciation for her many contributions to higher education, youth, and her community.

Approved May 21, 1993

Time: 2:47 P.M.

Act No. 93-729

H.J.R. 489 – Rep. Turner

HOUSE JOINT RESOLUTION

RECOGNIZING COLONEL MARK D. PEEVY ON THE OCCASION OF HIS RETIREMENT FROM THE DEPARTMENT OF PUBLIC SAFETY.

WHEREAS, Mark D. Peevy, who is retiring as Director of the Department of Public Safety, effective June 1, 1993, joined the Alabama Department of Public Safety in 1966, thereby beginning an outstanding tenure that was to span some 27 years; and

WHEREAS, he was appointed an Alabama State Trooper in 1970, and assigned to the Highway Patrol Division in Montgomery; in the years to follow, he moved through the ranks serving with the department's Executive Protective Service under Governor George C. Wallace, in the Driver Improvement Unit of the department's Drivers License Division, and as an investigator within the department's Intelligence Unit until his return to Executive Protection in 1987; and

WHEREAS, Mr. Peevy was appointed Assistant Director of the department in 1991, and the following year was named to his present position as Director of Public Safety with the rank of Colonel, and WHEREAS, a native of McKenzie, Alabama, Colonel Peevy attends Blue Ridge Baptist Church in Wetumpka, and is a member of the Fraternal Order of Police and the Alabama State Trooper Association; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, That in recognition of distinguished service to the Alabama Department of Public Safety, and upon the occasion of his retirement, June 1, 1993, we hereby most highly commend Colonel

Mark D. Peevy, and direct that he receive a copy of this resolution, executed in highest personal regard and with sincere best wishes for every future success and happiness.

Approved May 21, 1993

Time: 2:48 P.M.

Act No. 93-730 H.J.R. 507 – Reps. McDowell, Kennedy, Perdue,
 McClain, Buskey, Parker (T),
 Richardson, Campbell

HOUSE JOINT RESOLUTION

COMMENDING THE HONORABLE SHIRLEY CHISHOLM.

WHEREAS, it is with a sense of great pleasure that the Legislature of Alabama welcomes the Honorable Shirley Chisholm to Alabama; and

WHEREAS, Mrs. Chisholm will speak at Lawson State Community College's Commencement Exercise on Sunday, May 30, 1993, in Birmingham; and

WHEREAS, in 1968, she became the first African-American woman to be elected to the Congress of the United States, was the only woman and the only African-American to sit on the powerful House Rules Committee, and was the leading member of the Congressional Black Caucus; and

WHEREAS, Congresswoman Shirley Chisholm made history in 1972 by seriously campaigning for the Democratic Party nomination for president—the first Black woman to seek the nation's highest office; although she was not successful, her name, her ideals, and her commitment became imbedded in America's consciousness; and

WHEREAS, former Congresswoman Chisholm has earned praise for her efforts on behalf of black colleges, compensatory education, minimum wage for domestics, American Indians, the Haitian refugees, migrant farm workers and the poor; her fierce individualism has resulted in a reputation as a "maverick" and "unpredictable," terms which denote that she has been a power in her own right in the House of Representatives; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That we most highly commend and congratulate the Honorable Shirley Chisholm on her notable and distinguished career in public service and welcome her to the State of Alabama.

BE IT FURTHER RESOLVED, That a copy of this resolution be provided for Mrs. Chisholm as evidence of our esteem and warmest personal regard.

Approved May 21, 1993

Time: 2:49 P.M.

Act No. 93-731

H.J.R. 508 – Reps. Kvalheim, Gaston

HOUSE JOINT RESOLUTION

COMMENDING DR. ERNEST G. DEBAKEY, UPON HIS SELECTION AS “MOBILE COUNTY DOCTOR OF THE YEAR.”

WHEREAS, it is with a sense of great pride and pleasure that the Legislature of Alabama notes the recent selection of Dr. Ernest G. DeBakey as “Mobile County Doctor of the Year”; and

WHEREAS, Dr. DeBakey was honored on March 30, 1993, by the Mobile County Medical Auxiliary, in connection with the observance of National Doctors’ Day; and

WHEREAS, he received his degree in pharmacy and in medicine from Tulane University, interned at Charity Hospital in New Orleans and at Washington University specializing in thoracic surgery; he served with distinction as a flight surgeon in the United States Army Air Corps in the China-Burma-India theatre during World War II; and

WHEREAS, Dr. DeBakey came to Mobile in 1948 to enter the private practice of medicine and, since 1949, has been an associate professor of thoracic surgery at Tulane University Medical School; and

WHEREAS, practicing his philosophy that trust between patient and physical is paramount, Dr. DeBakey has endeared himself to the citizens of Mobile County by combining his superior skills with personal care and devotion to his patients; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That we most highly commend and congratulate Dr. Ernest G. DeBakey upon his selection as “Mobile County Doctor of the Year” and request that a copy of this resolution be provided to him as evidence of esteem and warmest personal regard.

Approved May 21, 1993

Time: 2:50 P.M.

Act No. 93-732

H.J.R. 510 – Reps. Penry, McMillan

HOUSE JOINT RESOLUTION

COMMENDING MARY ELLIS HANSEN AS A SECOND TIME RECIPIENT OF THE J. WILLIAM FULBRIGHT FOREIGN SCHOLARSHIP.

WHEREAS, the Alabama Legislature, in highest commendation, notes the selection of Mary Ellis Hansen as a second time recipient of the J. William Fulbright Foreign Scholarship Award administered by the U.S. Department of Education and based on a knowledge of geography and world affairs; and

WHEREAS, Ms. Hansen, competing with some 10,000 educators, was one of only two selected from the Southeastern area, and one of just 18 from across the United States, and from U.S. defense schools located in foreign countries, to be selected for this prestigious scholarship; and

WHEREAS, Ms. Hansen, as a recipient, will be required to plan, develop, and implement a project to fully complete all scholarship requirements; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That in tribute to outstanding accomplishment as a second time recipient of the J. William Fulbright Foreign Scholarship Award, we hereby most highly commend Ms. Mary Ellis Hansen, for whom a copy of this resolution shall be provided.

Approved May 21, 1993

Time: 2:51 P.M.

Act No. 93-733

S.J.R. 82 – Senator Dixon

SENATE JOINT RESOLUTION

RELATING TO CERTIFICATES OF PARTICIPATION FINANCIAL AGREEMENTS.

WHEREAS, the use of a new financing arrangement called certificates of participation has greatly increased in the past two years; and

WHEREAS, concerns have been expressed by state financial experts regarding these COP arrangements; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That:

(a) A study committee is created to investigate the use of certificate of participation type financing agreements, including, but not limited to, certificates of participation, private activity bonds, negotiated debt instruments, or any other financial arrangements not subject to the competitive bid law that are created for any purpose including, but not limited to, hotel or convention center purposes. The committee shall study the impact of these arrangements on the state credit rating, the ability of state officials to manage state finances, the construction and safety standards of the buildings constructed, the liability of the state, investor understanding of potential risks, and other relevant matters.

(b) The committee shall be composed of the following individuals:

1. Three members of the State Senate appointed by the Presiding Officer of the Senate.

2. Three members of the House of Representatives appointed by the Speaker of the House of Representatives.

3. Three persons appointed by the Governor.

(c) Upon the request of the chair, the Secretary of the Senate and the Clerk of the House of Representatives shall provide clerical assistance to the committee. The Department of Finance, the State Board of Education, and any other state entity shall, upon request of the committee, provide technical assistance to the committee.

(d) Each legislative member of the committee shall be entitled to regular legislative compensation, per diem, and travel expenses for each day of attendance at a meeting of the committee. Members of the committee appointed by the Governor shall be entitled to the same per diem as paid to state employees. These payments shall be paid out of any funds appropriated to the use of the Legislature, upon warrants drawn on the State Comptroller upon requisitions signed by the chair of the committee. Legislative members shall not receive additional compensation or per diem when the Legislature is in session or if such a member is being paid any other payments on the same dates for attendance of other state business. The total expenditures of the committee shall not exceed seven thousand five hundred dollars (\$7,500).

(e) The committee shall report its findings, conclusions, and recommendations to the Legislature not later than the 5th legislative day of the 1994 Regular Session, at which time the committee shall dissolve.

Approved May 21, 1993

Time: 2:52 P.M.

Act No. 93-734

S.J.R. 146 – Senators Hale and Dial

SENATE JOINT RESOLUTION

NAMING THE SEVENTH FLOOR OF THE TOM BEVILL BUILDING AT WALLACE STATE COMMUNITY COLLEGE IN HANCEVILLE, ALABAMA, THE “KAREN STANFIELD FLOOR.”

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That we hereby name and designate the Seventh Floor of the Tom Bevill Building at Wallace State Community College, the “Karen Stanfield Floor.”

BE IT FURTHER RESOLVED, That the proper officials are authorized to erect and maintain appropriate signs and markers as are necessary to appropriately identify the floor as the “Karen Stanfield Floor.”

Approved May 21, 1993

Time: 2:53 P.M.

Act No. 93-735

S.J.R. 134 – Senator Escott-Russell

SENATE JOINT RESOLUTION

ESTABLISHING AN ADVISORY COMMITTEE TO STUDY MASS TRANSIT AND PARATRANSIT NEEDS IN URBAN AND RURAL AREAS.

WHEREAS, there is a need for the Legislature to identify mass transit and paratransit needs in urban and rural areas; and

WHEREAS, the Legislature desires to establish an advisory committee to assist the Legislature in the evaluation of public transportation needs in the state; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That there is established an advisory committee on public transportation. The committee shall be composed of the following members:

(1) Three members of each house appointed by the presiding officer of each house.

(2) Four members who are representatives from public transit systems in this state to be appointed by the Alabama Transit Association.

(3) One member who is a representative of the Governor's Office of Minority Affairs.

(4) One member who is a representative of the Alabama Development Office.

(5) One member who is the State Highway Director.

(6) One member who is the Director of Finance for the State Highway Department.

(7) One member who is a representative of the Governor's Americans With Disabilities Coordinating Office.

(8) One member who is a representative of the Director of the Alabama Department of Aeronautics.

(9) One member who is a representative of the Public Service Commission.

(10) Two members, one who is the chair and one who is the vice chair of the Joint Legislative Highway Committee.

The committee shall perform the following functions:

(1) Identify and evaluate mass transit and paratransit needs in urban and rural areas of the state.

(2) Identify appropriate actions to address and recommend appropriate responses by the Legislature, Governor, and local planning organizations that have responsibility for planning transit services.

The committee shall meet as soon as practicable after the adjournment of the 1993 Regular Session of the Legislature and shall select from among its members a chair and vice chair. Upon the request of the chair, the Secretary of the Senate and the Clerk of the House shall provide the clerical assistance necessary for the committee's work. The committee shall report its findings, conclusions, and recommendations to the Legislature not later than the first legislative day of the 1994 Regular Session, whereupon, the committee shall stand dissolved and discharged of any further duties and liabilities. Each legislative member of the committee shall be entitled to his or her regular legislative compensation, his or her per diem, and travel expenses for each day he or she attends a meeting of the committee. Notwithstanding the foregoing, no member shall receive additional legislative compensation or per diem when the Legislature is in session or if a member is being paid any other payments on the same dates for attendance of other state business. Nonlegislative members of the committee shall not be entitled to compensation, mileage, or per diem expenses for service on the committee. The compensation and expenses of the members shall be paid out of any

funds appropriated to the use of the Legislature, upon warrants drawn on the State Comptroller upon requisitions signed by the chair of the committee. The total expenditures of the committee shall not exceed ten thousand dollars (\$10,000).

Approved May 21, 1993

Time: 2:54 P.M.

Act No. 93-736

H.J.R. 208 – Rep. Harper

HOUSE JOINT RESOLUTION

DECLARING AN EMERGENCY IN REGARD TO FUNDING FROM THE ALABAMA SPECIAL EDUCATIONAL TRUST FUND FOR THE FISCAL YEAR ENDING SEPTEMBER 30, 1993.

WHEREAS, the Legislature hereby determines pursuant to Act 88-981 that an emergency exists in regard to funding from the Alabama Special Educational Trust Fund:

NOW THEREFORE BE IT RESOLVED BY THE LEGISLATURE, BOTH HOUSES THEREOF CONCURRING, That the sum of \$16,000,000 shall be withdrawn from the Proration Prevention Account and shall be transferred to the Alabama Special Educational Trust Fund on or after October 1, 1992, to be available for appropriation by the Legislature for the fiscal year ending September 30, 1993.

BE IT FURTHER RESOLVED, That this resolution shall become effective immediately upon its passage by the Legislature and approval by the Governor or upon its otherwise becoming a law.

Approved May 21, 1993

Time: 2:55 P.M.

Act No. 93-737

H.J.R. 209 – Rep. Harper

HOUSE JOINT RESOLUTION

DECLARING AN EMERGENCY IN REGARD TO FUNDING FROM THE ALABAMA SPECIAL EDUCATIONAL TRUST FUND FOR THE FISCAL YEAR ENDING SEPTEMBER 30, 1994.

WHEREAS, the Legislature hereby determines pursuant to Act 88-981 that an emergency exists in regard to funding from the Alabama Special Educational Trust Fund:

NOW THEREFORE BE IT RESOLVED BY THE LEGISLATURE, BOTH HOUSES THEREOF CONCURRING, That the sum of \$16,000,000 shall be withdrawn from the Proration Prevention Account and shall be transferred to the Alabama Special Educational Trust Fund on or after October 1, 1993, to be available for appropriation by the Legislature for the fiscal year ending September 30, 1994.

BE IT FURTHER RESOLVED, That this resolution shall become effective immediately upon its passage by the Legislature and approval by the Governor or upon its otherwise becoming a law.

Approved May 21, 1993

Time: 2:56 P.M.

Act No. 93-738

H.J.R. 483 – Rep. Knight (A)

HOUSE JOINT RESOLUTION

CREATING A JOINT INTERIM STUDY COMMITTEE TO DEVELOP A COMPREHENSIVE TELECOMMUNICATIONS PLAN FOR THE STATE.

WHEREAS, The Alabama Legislature believes that there is a need for a telecommunications superhighway, including information services, distance learning, telemedicine, telecommuting, and all facets of a state-of-the-art infrastructure for telecommunications in Alabama in order to offer solutions to the critical education, transportation, health care, law enforcement, and governmental service problems, and the flexibility to deploy necessary technology at an affordable cost to the consumers and meet the regulatory standards of each; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That there is hereby created a joint interim legislative committee to study every facet of the State of Alabama providing its citizens with a telecommunications superhighway, within the areas stated in the Legislative intent, including any economic impact on State and local government.

BE IT FURTHER RESOLVED, That the joint committee be composed of three members of the Alabama Senate to be appointed by the presiding officer of the Senate and three members of the House of Representatives to be appointed by the Speaker of the House of Representatives; the committee shall select a chair and a co-chair

from among its membership and form their own rules of procedure for conducting its business and may accept any funds for the purpose of accomplishing its purpose from any public or private source.

BE IT RESOLVED FURTHER, That the Clerk of the House and the Secretary of the Senate shall provide the necessary clerical assistance for the committee's work. The committee shall report its findings, conclusions, and recommendations to the Legislature not later than the fifth legislative day of the 1994 Regular Session, and may report, from time to time, in the interim, or upon request of the Legislature. Upon its final report of the fifth legislative day of the 1994 Regular Session, the committee shall stand dissolved and discharged of any further duties and liabilities. Each member may receive his or her regular legislative compensation, per diem, and travel expenses for each day the committee member attends a meeting of the joint interim committee which shall be paid out of any funds appropriated or donated to the use of the Legislature for the purposes of the study, upon warrants drawn as provided by law, provided that no member shall receive additional legislative compensation or per diem when the Legislature is in session or the member attends another legislative committee on that same day. The total committee expenditures shall not exceed five thousand dollars (\$5,000).

BE IT FURTHER RESOLVED, To develop a comprehensive telecommunications plan for the state, the joint committee should identify all of the diverse needs of the state and its citizens, analyze existing facilities and systems, and design an ultimate infrastructure. In order to identify needs, a broad array of telecommunications users and providers should be surveyed. Regulators, educators, transportation officials, health care providers, prison commissions, local exchange telephone companies, interexchange carriers, computer companies, broadcasters, cable companies, electric power associations, and many others shall be invited to participate in the identification of long and short term needs.

Approved May 21, 1993

Time: 2:57 P.M.

Act No. 93-739

H.J.R. 534 – Rep. Parker (T)

HOUSE JOINT RESOLUTION

COMMENDING OUR STATE'S MEDICAL SCHOOLS AND
RECOMMENDING GOALS FOR INCREASING THEIR PER-
CENTAGE OF GENERALIST PHYSICIAN GRADUATES.

WHEREAS, it is generally known that there is a significant shortage of physicians in rural Alabama; and

WHEREAS, further, it is a fact that almost all of the physician-provided health care outside of our metropolitan areas is supplied by primary care physicians, family physicians, general pediatricians and general internal medicine physicians; and

WHEREAS, it is recognized that many rural and inner-city Alabamians have limited access to medical care due to lack of availability of physicians and economic problems, and that the most logical and cost-effective entry-point is a primary care physician; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That it shall be recommended to our medical schools at the University of South Alabama and the University of Alabama at Birmingham that they should set as a goal within four years that fifty percent of their medical school graduates become generalist physicians.

BE IT FURTHER RESOLVED, That it is recommended that three years after the above goal is attained, that fifty percent of all the various residency graduates of these institutions shall be primary care physicians.

BE IT FURTHER RESOLVED, That our medical schools are to be commended in that the University of South Alabama has had a long-standing commitment to primary care, and the University of Alabama School of Medicine has launched a Primary Care Initiative to complement a tradition of excellent tertiary care and biomedical research.

Approved May 21, 1993

Time: 2:58 P.M.

Act No. 93-740

H.J.R. 513 – Reps. Kvalheim, Gaston,
Zoghby, Kennedy

HOUSE JOINT RESOLUTION

MOURNING THE DEATH OF KENNETH R. GIDDENS OF
MOBILE, ALABAMA.

WHEREAS, it is with profound sorrow and regret that the Legislature of Alabama records the death of Kenneth R. Giddens of Mobile, Alabama, on May 8, 1993, at the age of 84 years; and

WHEREAS, Mr. Giddens, a native of Pine Apple, Alabama, and a resident of both Mobile and Washington, was a great humanitarian, as well as a prominent businessman, civic leader, and founder, owner, and former president of WKRG-TV; and

WHEREAS, he was also a well-known architect, designer and general contractor, having held positions with the City of Mobile, the Reemployment Service, and the National Park Service, and was a founding partner in the Giddens and Rester Theaters; and

WHEREAS, during his illustrious broadcasting career, Mr. Giddens served as president of the Alabama Broadcasting Association, on the board of the National Association of Broadcasters, and CBS-TV Affiliates Advisory Board, and held key leadership positions with Voice of America, the United States Information Agency, and Radio Marti; and

WHEREAS, a veteran of the U.S. Naval Reserve, Mr. Giddens received his bachelor's degree in architecture from Auburn University, was the recipient of an honorary doctor of law by Westminster College, honorary doctor of the humanities by Fort Lauderdale University, and was made an honorary fellow of Mobile College in 1979; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That we grievously mourn the death of Kenneth R. Giddens of Mobile, and extend our deepest sympathy to his wife Zelma Kirk Giddens; daughters, Ansley Giddens Green, Therese Giddens Greer, and Kay Giddens Glenday; to his grandchildren and great grandchildren; and to other family members, for whom a copy of this resolution shall be provided.

Approved May 21, 1993

Time: 3:00 P.M.

Act No. 93-741 H.J.R. 515 – Reps. Buskey, Clark (W), Kennedy
HOUSE JOINT RESOLUTION

RECOGNIZING THE 50TH ANNIVERSARY OF THE
“MOBILE BEACON.”

WHEREAS, it is with great pleasure that the Alabama Legislature notes the 50th Anniversary of the “Mobile Beacon,” the second oldest Black oriented newspaper in the State of Alabama, with subscribers across Alabama and throughout the 50 states; and

WHEREAS, over the years, the Thomas family, as publishers of the Beacon, has always served to improve race relations and, for this, have received many citations and awards; and

WHEREAS, before his death in 1974, Frank P. Thomas, who along with his wife, Lencie M. Thomas, founded the newspaper, was honored with an outstanding journalist award by the Alabama Press Association, as editor and publisher of the "Mobile Beacon," as well as the "Alabama Citizen" and the "Selma Citizen," from 1943 to 1974; and WHEREAS, he also was recipient of the Distinguished Publishers Award by the National Newspaper Publishers Association, which stated, "For the Cause of Justice, the Defense of Freedom, and Promotion of Equal Opportunity in the Deep South"; and

WHEREAS, today, the Beacon continues to be published by Mrs. Thomas, her daughters, Cleretta Blackmon, and Mrs. Blackmon's son, Hjordis Blackmon; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That it is with heartiest congratulations and commendation that we recognize the 50th Anniversary of the Mobile Beacon and direct that, in celebration of this momentous occasion, a copy of this resolution be prepared for presentation to the Thomas family at the reception and banquet to be held on June 5, 1993.

Approved May 21, 1993

Time: 3:01 P.M.

Act No. 93-742

H.J.R. 521 – Rep. McKee

HOUSE JOINT RESOLUTION

HONORING MR. CHARLES ARNOLD PIGG UPON THE OCCASION OF HIS RETIREMENT.

WHEREAS, it is with a sense of great pride and pleasure that the Legislature of Alabama notes the retirement on May 31, 1993, of Mr. Charles Arnold Pigg from the Alabama Forestry Commission; and

WHEREAS, Alabama's forestry program has been blessed with the capability of a man who has given more than 35 years of his life to the people of Alabama; and

WHEREAS, Charles Arnold Pigg emerged from Auburn University with a degree in forestry in 1955 and assumed his first

professional role as a C. F. M. Forester with the Division of Forestry in December 1956; in 1959, he became Assistant to the Management Chief of Forestry Operations; and

WHEREAS, in 1961, Charles Pigg accepted a new challenge as he became Assistant Chief of Fire Control for Forestry, a position in which he developed innovative techniques for controlling wildfires in Alabama; it was this vision and determination to make the state a better place through forestry that he was named Assistant State Forester on December 7, 1970, a position he has held ever since; and

WHEREAS, Charles Pigg also rose through the ranks of the ROTC programs at the University of North Alabama and later at Auburn University; a distinguished military graduate, he was commissioned a 2nd Lieutenant, Army, in June 1954, entering active duty in November of that year; his brilliant military career included numerous assignments that propelled him to the rank of Colonel in September 1979, a rank he held at the time of his retirement; now therefore,

BE IT RESOLVED BY THE HOUSE OF REPRESENTATIVES OF THE LEGISLATURE OF ALABAMA, That we join his many friends and associates from the forestry field and the military in honoring Mr. Charles Arnold Pigg upon the occasion of his retirement from the Alabama Forestry Commission on May 31, 1993, and direct that he receive a copy of this resolution as evidence of our high esteem and warmest personal regard.

Approved May 21, 1993

Time: 3:02 P.M.

Act No. 93-743

H.J.R. 522 – Rep. McKee

HOUSE JOINT RESOLUTION

HONORING FREDERICK V. ERNST ON HIS BEING NAMED PRESIDENT OF MACMILLAN BLOEDEL INC.

WHEREAS, Frederick V. Ernst has enjoyed a distinguished career of more than 30 years in the pulp and paper industry in the United States; and

WHEREAS, Mr. Ernst earned a Bachelor of Science degree from Yale University and a Master of Business Administration degree from Harvard University; and

WHEREAS, while living in Dothan, Alabama, from 1973 to 1985, he served in management positions at Great Northern Nekoosa Corporation; and

WHEREAS, he has earned a well-deserved reputation for high standards of business and professional conduct in his work at Great Northern Nekoosa Corporation and Chesapeake Corporation; and

WHEREAS, Mr. Ernst has recently been named President of MacMillan Bloedel Inc., one of Alabama's leading businesses whose corporate headquarters for U.S. operations are located in Montgomery, Alabama; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That the Alabama Legislature heartily congratulates Mr. Ernst on his new position as president of MacMillan Bloedel, Inc., welcomes him on his return to Alabama, and wishes him a long and successful career.

Approved May 21, 1993

Time: 3:03 P.M.

Act No. 93-744

H.J.R. 523 – Reps. Bowling, Drake

HOUSE JOINT RESOLUTION

NAMING THE SEVENTH FLOOR OF THE TOM BEVILL BUILDING AT WALLACE STATE COMMUNITY COLLEGE IN HANCEVILLE, ALABAMA, THE “KAREN STANFIELD FLOOR.”

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That we hereby name and designate the Seventh Floor of the Tom Bevill Building at Wallace State Community College, the “Karen Stanfield Floor.”

BE IT FURTHER RESOLVED, That the proper officials are authorized to erect and maintain appropriate signs and markers as are necessary to appropriately identify the floor as the “Karen Stanfield Floor.”

Approved May 21, 1993

Time: 3:04 P.M.

Act No. 93-745

H.J.R. 525 – Reps. Carothers, Johnson, Beasley, Biddle, Bowling, Butler, Drake, Flowers, Freeman, Hall, Haynes, Kvalheim, McClain, McDowell, Rockhold

HOUSE JOINT RESOLUTION

MOURNING THE DEATH OF DR. C. RAY CARLSON OF MONTGOMERY, ALABAMA.

WHEREAS, it is with deep sadness and regret that the Alabama Legislature records the death of Dr. C. Ray Carlson of Montgomery, Alabama on January 20, 1993; and

WHEREAS, a retired U.S. Air Force Colonel, Dr. Carlson directed the Coosa-Alabama River Improvement Association, and devoted untold hours in service to the Montgomery Lions Club, as a member of the board of the Carver Creative and Performing Arts Council, in selfless service to others, and to his church, the Church of Christ, Scientist, which he served as spokesman and publications director; and

WHEREAS, Dr. Carlson, a native of Minneapolis, earned his bachelor of arts degree from Hamline University in Minneapolis, and a master's degree and doctorate in education from the University of Minnesota; and

WHEREAS, following service in World War II, he accepted his first teaching position at the University of Alabama, and in the ensuing years, taught at various Air Force bases around the United States, was military attache to Australia, served in Vietnam, and at the Air Force Office of Information at the Pentagon; and

WHEREAS, following service in Vietnam, Dr. Carlson served as professor of aerospace studies at Southern Illinois University, and as commandant of the Academic Instructor and Foreign Officer School at Air University at Maxwell Air Force Base in Montgomery until retirement in 1978; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, That we are deeply saddened by the death of Dr. C. Ray Carlson of Montgomery, and extend deepest and most heartfelt sympathy to his family, for whom a copy of this resolution shall be provided.

Approved May 21, 1993

Time: 3:05 P.M.

Act No. 93-746

H.J.R. 553 – Rep. Holley

HOUSE JOINT RESOLUTION

COMMENDING MIKE HORST WILLIAMS OF ENTERPRISE, ALABAMA, FOR OUTSTANDING ACHIEVEMENTS IN SCOUTING.

WHEREAS, the Legislature notes with pride that Mike Horst Williams of Enterprise has earned the esteemed Eagle Scout Award; and

WHEREAS, Mike, who is the eldest son of Mark and Christa Williams, began scouting in 1982 as a Tiger Cub in Cub Scout Pack 224 while living in Wiesbaden, Germany; and

WHEREAS, when his family moved to Fort Rucker, Alabama, in 1984, Mike continued in scouting with Cub Scout Pack 50 and earned his world Conservation Award and the highest Cub Scout Award, The Arrow of Light; and

WHEREAS, Mike Williams moved up to the Boy Scouts in 1987 and in Boy Scout Troop 50 held numerous leadership positions and earned 11 Merit Badges; and

WHEREAS, in 1988 he was admitted to the Order of The Arrow and completed the first part of the Ordeal on his Eagle Scout Project; and

WHEREAS, in 1989 he moved again to Germany with his family where he helped organize new Boy Scout Troop 79 in which he served as a Senior Patrol Leader and led the troop on numerous high adventures ranging from cross-country skiing to white water rafting in Germany, Austria, Czechoslovakia, and Hungary; and

WHEREAS, after returning with his family to Fort Rucker in 1991, Mike completed his Ordeal in the Order of The Arrow and became a Brotherhood member and in March 1993 completed work on his Eagle Scout Project; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That we do hereby most highly commend Mike Horst Williams as a recipient of the prestigious Eagle Scout Award and for his outstanding accomplishments in scouting.

RESOLVED FURTHER, That a copy of this resolution shall be sent to Mike Horst Williams.

Approved May 21, 1993

Time: 3:06 P.M.

Act No. 93-747

H.J.R. 554 – Rep. Holley

HOUSE JOINT RESOLUTION

COMMENDING ROLANDO ALBERTO HOPE OF OZARK, ALABAMA, ON HIS OUTSTANDING ACHIEVEMENT.

WHEREAS, Rolando Alberto Hope is currently attending Carroll High School in Ozark, Alabama, where he excels both in school and in extracurricular activities; and

WHEREAS, Rolando Hope participates in the Carroll High Concert Band and the Pride of the Wiregrass Band. He is a member of the Chess Club and National Honor Society. In addition he has won numerous art contests, received the Presidential Academic Fitness Award, served as a member of Carroll High's Scholar's Bowl, and served as a youth soccer coach; and

WHEREAS, Rolando Hope has been active in the Scouting Program since 1989 serving as Patrol Leader, Quartermaster, and Scribe in his Troop. In addition, he has been selected for Junior Leaders Training and the Order of the Arrow, serving as Chapter Chairman, and is currently serving on the Staff of the Woodlore Camping School and the Camp Ala-Flo; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That this body recognizes the achievement of Rolando Alberto Hope, both as a student and for his participation in extracurricular activities.

BE IT FURTHER RESOLVED, That a copy of this resolution be sent to Rolando Hope as a token of our esteem.

Approved May 21, 1993

Time: 3:07 P.M.

Act No. 93-748

S. 381 – Senator Bennett

AN ACT

To amend Section 41-16-123 of the Code of Alabama 1975, to provide for the disposition of surplus personal property owned by a state college or university, including two-year colleges, and to provide for the disposition pursuant to an agreement between the division of property and colleges or universities by free and open competitive public auction or sealed bids.

Be It Enacted by the Legislature of Alabama:

Section 1. Section 41-16-123 of the Code of Alabama 1975, is amended to read as follows:

“§41-16-123.

“This section shall apply only to that property that has been held by the division for a period of not less than 60 days from the date the property is first published in the list of surplus property, as set out in subsection (b) of section 41-16-121, and not purchased by any agency as set out in subsection (e) of section 41-16-120.

“(1) All contracts made by or on behalf of the state of Alabama or a department, board, bureau, commission, institution, corporation, or

agency thereof, of whatever nature for the sale or disposal of tangible personal property owned by the state of Alabama, other than the following:

- "a. Alcoholic beverages.
- "b. Products of the Alabama Institute for Deaf and Blind.
- "c. Barter arrangements of the state prison system.
- "d. Books.
- "e. School supplies.
- "f. Food.
- "g. Property used in vocational projects.
- "h. Livestock.

"i. Property owned by any state college or university, including those state two-year colleges under the control of the board of education of the state of Alabama, which has market value or which has trade-in value which may be credited against the cost of replacement property purchased in accordance with the Alabama competitive bid laws. For property owned by those state two-year colleges under control of the state board of education, the college shall file with the chancellor of the Postsecondary Education Department, on forms provided by the chancellor, a list of the property to be sold, the auctioneer to be used, the place the property will be sold, and when and where the property will be advertised pursuant to state law. After the sale, the college shall file a report with the chancellor stating the property sold at auction, the price paid for each piece of property, the amount received from sale of each piece of property, the account to which auction receipts were deposited, a copy of the advertisement, and the commission paid to the auctioneer.

"j. Types of property, the disposal of which is otherwise provided or by law or which, by nature, are incapable of sale by auction or bid, shall be let by free and open competitive public auction or sealed bids. This subsection shall not be construed to prevent disposal by the division of property owned by a state college or university should there be an agreement between the division and the respective college or university for the disposal by free and open competitive public auction or sealed bids as described in this subsection.

"(2) Every proposal to make a sale covered by this section shall be advertised for at least two weeks in advance of the date fixed for receiving bids. The advertisement shall appear at least once a week for two consecutive weeks in a newspaper of general

circulation in the county where the sale is to be made, and a copy of the proposal shall simultaneously be posted on a readily accessible public bulletin board at the main office of the chief of the division. Advertisements for bids shall state the item or items to be sold, by class and description, where the property is located and the dates, time, and place the property may be inspected. The advertisements shall further state the date, time, and place of auction or opening of sealed bids, and no bid shall be received at any time after the time advertised.

“(3) The bids shall be publicly taken or opened, in case of sealed bids, by the chief of the division and all bidders shall be entitled to be present in person or by representative.

“(4) The award of the contract shall be made to the successful bidder within 72 hours after taking of the bids.

“(5) The bid of the successful bidder so marked, as well as the bids of the unsuccessful bidders in the case of sealed bids, shall be placed on file open to public inspection and shall become matters of public record.

“(6) If a successful bidder shall fail to accept award of a contract, then he or she shall be prohibited from bidding at any sale held by the division for a period of 12 months following the failure to accept.

“(7) The chief of the division may sell all items by lot or by individual item, whichever method, in his or her opinion, will bring the highest return for the items advertised.

“(8) In the event all bids received are less than the estimated market value of the property, the chief of the division shall reject all bids and readvertise and rebid.

“(9) **Nothing herein shall be construed to prevent the chief of the division from contracting with the highest bidder for any type of property to sell to that bidder all of that type of property at his or her bid price during that fiscal year providing that arrangement was included in the initial request for bids.**

“(10) All property advertised pursuant to this section shall be available for inspection during the normal state office hours and at whatever place advertised for at least 48 hours prior to sale.

“(11) All property sold pursuant to this section shall be paid for by the purchaser or his or her representative by cashier's check, bank draft, certified check, U. S. currency, or notarized bank letter stating that the holder may purchase surplus property and also stating a maximum amount, at the time of acceptance of bid and award of contract, and the removal shall be not later than

seven days after the awarding of the contract and the time limit of seven days shall not be applicable to sales of standing timber.

"(12) All proceeds from sales made pursuant to this section shall be paid into the state treasury or other legally authorized depository to be credited to the proper fund as set out in subsection (b) of section 41-16-122 prior to final distribution as set out in subdivision (16) of this section.

"(13) No officer or employee of the state of Alabama or any of its departments, boards, bureaus, commissions, institutions, corporations, or agencies shall act as agent for any bidder and the officers or employees shall not be excluded from bidding on or purchasing state property at public sale or sealed bid.

"(14) Any sale of tangible personal property or standing timber of the state made in violation of the terms of this article shall be null and void, and the person or persons responsible for the violation shall be subject to liquidated damages of not less than one thousand dollars (\$1,000) nor more than ten thousand dollars (\$10,000), which may be recovered for the state of Alabama by the attorney general by civil action in the circuit court of Montgomery County. Any moneys recovered by the attorney general under this section shall be equally divided between the office of the attorney general and the state general fund.

"(15) The provisions of this article shall not apply to the sale of diseased, storm, or fire-damaged timber, nor shall it apply to timber cut on rights-of-way or easements. The timber may be sold or otherwise disposed of in a manner the commissioner of conservation and natural resources deems in the best interest of the state and no sale of diseased timber shall be made until the state forester shall certify that the timber is diseased, and the certification shall be in written form and filed with the director of finance.

"(16) Whenever any surplus property that was purchased with either earmarked state funds or restricted federal funds is sold by the division, the proceeds from the sale, less administrative expenses, shall be deposited to the credit of the specific fund of the state department, commission, or agency from which the original purchase of the property was made within 30 days from receipt of the proceeds. If the source of the original purchase of the property was a general fund appropriation, then the sale proceeds, less any administrative fee, as set out in the rules authorized to be promulgated by the division, shall be credited to the account from which it was purchased. In no event shall the administrative fee exceed 25 percent of the gross sale price.

"(17) All educational and eleemosynary institutions, not exempted in subdivision (1) of this section, governed by a board of

trustees or other similar governing body, the department of mental health and mental retardation, and state docks department shall be governed by the provisions of this article.

“(18) Violation of the provisions of this article shall constitute a Class B misdemeanor punishable as prescribed by law.”

Section 2. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved May 25, 1993

Time: 2:00 P.M.

Act No. 93-749

H. 109 – Reps. Sanderson, Petelos, Gaines

AN ACT

Relating further to issuing and renewing driver's permits and licenses for motor vehicles; to prohibit the Department of Public Safety from refusing to issue, or renew, or revoke the permit or license for the operation of a motor vehicle based only on physical appearance, speculations or generalizations that the physical impairment would impede the individual's ability to operate the vehicle in a safe manner; and to provide for civil procedure for an aggrieved applicant, with an appeal to the circuit court.

Be It Enacted by the Legislature of Alabama:

Section 1. Any person with physical disabilities, a record of an impairment, or regarded as having an impairment shall be subject to the same laws, rules, and regulations set forth by the Department of Public Safety relating to the licensure of an individual to operate a motor vehicle.

Section 2. Notwithstanding any law, rule, or regulation, the State Department of Public Safety shall not refuse to issue any permit or license for the operation of a motor vehicle, or the renewal of either, on the grounds of physical appearance, speculations or generalizations that the individual's physical impairment would impede that person's ability to operate a motor vehicle in a safe manner without probable cause to believe the person's ability to operate a motor vehicle in a safe manner is in fact impaired.

Section 3. If the department refuses to issue a permit or license or arbitrarily questions the person's abilities based on physical appearance or speculated inability to operate a motor vehicle in a safe manner, the person shall have a right to an impartial hearing before the Director of Public Safety or his or her designee. At

the hearing, the person shall have the right to be represented by counsel and to present witnesses including, but not limited to, a physician of choice. The person may appeal any decision to the circuit court of competent jurisdiction for a trial de novo.

Section 4. This act shall be interpreted to be consistent with and to further the purposes and policies of Section 504 of the Rehabilitation Act of 1973, as amended, 34 CFR part 104 and P.L. 101-336, The Americans with Disabilities Act of 1990, together with implementing regulations and subsequent amendments to the laws and regulations.

Section 5. The provisions of this act are severable. If any part of this act is declared invalid or unconstitutional, that declaration shall not affect the part which remains.

Section 6. Any law, rule, or regulation in direct conflict with this act is repealed only to the extent of any conflict.

Section 7. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved May 25, 1993

Time: 2:01 P.M.

Act No. 93-750

H. 806 – Reps. McMillan, Penry, Kvalheim,
Gaston, Turner, Harper

AN ACT

To further provide for the taking, killing, or harvesting of the tarpon (*Megalops Atlanticus*) from the waters of the state; to require the purchase of tags for each tarpon taken, killed, or harvested; to provide for the Marine Resources Division of the Department of Conservation and Natural Resources to regulate the sale of the tags; and to provide misdemeanor penalties for violations of this act.

Be It Enacted by the Legislature of Alabama:

Section 1. It shall be unlawful for any person to possess or kill or harvest from the public waters of this state the fish commonly known as the tarpon (*Megalops Atlanticus*), and has been designated as the official state salt water fish of the State of Alabama, pursuant to Section 1-2-8, Code of Alabama 1975, without first obtaining from the Marine Resources Division of the State of Alabama Department of Conservation and Natural Resources a tag which shall be affixed to the tarpon immediately upon the kill or harvest from the public waters of Alabama.

Section 2. The cost of the tags for the tarpon shall be fifty dollars (\$50) per tag, and the Marine Resources Division may promulgate rules and regulations concerning the sale of the tags and the quantity thereof which may be purchased by any person during one calendar year.

Section 3. Any person who violates this act shall be guilty of a Class C misdemeanor and, upon conviction thereof shall be punished by a fine of not less than one hundred dollars (\$100) nor more than two hundred fifty dollars (\$250) for each offense.

Section 4. This act shall become effective sixty days after its passage and approval by the Governor or upon its otherwise becoming law.

Approved May 25, 1993

Time: 2:02 P.M.

Act No. 93-751

H. 346 – Reps. Carothers, Beasley,
Johnson, Mathis

AN ACT

To amend Section 25-4-10, Code of Alabama 1975, which defines the term “employment” for unemployment compensation purposes, to clarify the language exempting service in the employ of religious organizations.

Be It Enacted by the Legislature of Alabama:

Section 1. Section 25-4-10, Code of Alabama 1975, is hereby amended to read as follows:

“§25-4-10.

“(a) Subject to other provisions of this chapter, ‘employment’ means:

“(1) Any service performed prior to January 1, 1978, which was employment as defined in this section prior to such date and, subject to the other provisions of this section, services performed for remuneration after December 31, 1977, including service in interstate commerce, by:

“a. Any officer of a corporation; or

“b. Any individual who, under the usual common law rules applicable in determining the employer-employee relationship, has the status of an employee; or

"c. Any individual other than an individual who is an employee under paragraphs a or b of this subdivision (1) who performs services for remuneration for any person:

"1. As an agent-driver or commission-driver engaged in distributing meat products, bakery products, beverages (other than milk) or laundry or dry cleaning services for a principal;

"2. As a traveling or city salesman engaged upon a full-time basis in the solicitation on behalf of, and the transmission to, his or her principal (except for sideline sales activities on behalf of some other person) of orders from wholesalers, retailers, contractors or operators of hotels, restaurants or other similar establishments for merchandise for resale or supplies for use in their business operations.

"For purposes of paragraph c of this subdivision, the term 'employment' shall include services described in subparagraphs 1 and 2 of paragraph c of this subdivision, performed after December 31, 1971, only if:

"(i) The contract of service contemplates that substantially all of the services are to be performed personally by such individual;

"(ii) The individual does not have a substantial investment in facilities used in connection with the performance of the services (other than in facilities for transportation); and

"(iii) The services are not in the nature of a single transaction that is not part of a continuing relationship with the person for whom the services are rendered.

"(2) Service performed:

"a. After December 31, 1971, but prior to January 1, 1978, by an individual in the employ of this state or any of its instrumentalities or political subdivisions or their instrumentalities (or in the employ of any of the foregoing and one or more other states or their instrumentalities or political subdivisions) for a hospital or institution of higher education located in this state; provided, however, that such service is excluded from 'employment' as defined in the Federal Unemployment Tax Act solely by reason of Section 3306(c)(7) of that act, and is not excluded from 'employment' under subsection (b) of this section; provided further, that such service in the employ of a political subdivision or any of its instrumentalities shall be deemed to be 'employment' within the meaning of this chapter only if the political subdivision or its instrumentalities has elected to become an employer subject to this chapter pursuant to section 25-4-131 for all such service in the employ of the political subdivision and its instrumentalities and has not ceased to be an employer subject hereto pursuant to section 25-4-130 or section 25-4-131; and

"b. After December 31, 1977, in the employ of this state or any of its instrumentalities or of any political subdivision thereof or any of its instrumentalities or any instrumentality of more than one of the foregoing or any instrumentality of any one of the foregoing and one or more other states or political subdivisions, provided, however, that such service is excluded from 'employment' as defined in the Federal Unemployment Tax Act by section 3306(c)(7) of that act and is not excluded from 'employment' under subsection (b) of this section.

"c. For the purposes of this chapter, the term 'governmental entity' in reference to this state is defined as the entirety of state government, but for the purposes of reporting, accounting or other administrative procedures such entity shall be divided into each department, agency, board, commission and any other separately organized division or instrumentality of this state. The comptroller of this state shall make such payments to the director as are required by the other provisions of this chapter as they pertain to the various organizational components of the state. The comptroller is hereby authorized to require of such components such payments as are necessary to discharge his or her responsibilities and shall enforce such payments under the provisions of subsection (b) of section 25-4-51.

"d. The term 'governmental entity' in reference to any political subdivision is defined as each county and its instrumentalities and each municipality and its instrumentalities, except that each instrumentality of a political subdivision which is separately incorporated or otherwise removed from the control of the governing body of the political subdivision shall be a separate governmental entity. Instrumentalities organized and operated jointly by any combination of two or more of the aforementioned entities shall be considered as constituting a separate governmental entity. The foregoing notwithstanding, each separate public school system shall constitute a separate governmental entity.

"(3) Service performed after December 31, 1971, by an individual in the employ of a religious, charitable, educational or other organization but only if the following conditions are met:

"a. The service is excluded from 'employment' as defined in the Federal Unemployment Tax Act solely by reason of Section 3306(c)(8) of that act, and is not excluded from 'employment' under subdivisions (8) and (21) of subsection (b) of this section; and b. The organization had four or more individuals in employment for some portion of a day in each of 20 different weeks, whether or not such weeks were consecutive, within either the current or preceding calendar year, regardless of whether they were employed at the same moment of time.

"(4) a. Service performed after December 31, 1977, by an individual in agricultural labor as defined in subdivision (1) of subsection (b) of this section, when:

"1. Such service is performed for an employing unit which:

"(i) During any calendar quarter in either the current or the preceding calendar year paid remuneration in cash of \$20,000.00 or more to individuals employed in agricultural labor (not taking into account service in agricultural labor performed before January 1, 1984, by an alien referred to in subparagraph 2 of this paragraph a; or

"(ii) For some portion of a day in each of 20 different calendar weeks, whether or not such weeks were consecutive, in either the current or the preceding calendar year, employed in agricultural labor (not taking into account service in agricultural labor performed before January 1, 1984, by an alien referred to in subparagraph 2 of this paragraph a, 10 or more individuals, regardless of whether they were employed at the same moment of time.

"2. For the purposes of this paragraph a, such service is not considered to be performed in agricultural labor if performed before January 1, 1984, by an individual who is an alien admitted to the United States to perform service in agricultural labor pursuant to sections 214(c) and 101(a)(15)(H) of the Immigration and Nationality Act.

"3. For the purposes of this paragraph a any individual who is a member of a crew furnished by a crew leader to perform service in agricultural labor for any other person shall be treated as an employee of such crew leader.

"(i) If such crew leader holds a valid certificate of registration under the Farm Labor Contractor Registration Act of 1963, or substantially all the members of such crew operate or maintain tractors, mechanized harvesting or crop dusting equipment, or any other mechanized equipment, which is provided by such crew leader; and

"(ii) If such individual is not an employee of any other person within the meaning of subdivision (1) of this subsection.

"4. For the purposes of this subdivision (4) in the case of any individual who is furnished by a crew leader to perform service in agricultural labor for any other person and who is not treated as an employee of such crew leader under subparagraph 3 of this paragraph a:

"(i) Such other person and not the crew leader shall be treated as the employer of such individual; and

"(ii) Such other person shall be treated as having paid cash remuneration to such individual in an amount equal to the amount of cash remuneration paid to such individual by the crew leader (either on his or her own behalf or on the behalf of such other person) for the service in agricultural labor performed for such other person.

"5. For the purposes of this paragraph a, the term 'crew leader' shall mean an individual who:

"(i) Furnishes individuals to perform service in agricultural labor for any other persons;

"(ii) Pays (either on his or her own behalf or on behalf of such other person) the individuals so furnished by him or her for the service in agricultural labor performed by them; and

"(iii) Has not entered into a written agreement with the farm operator under which such crew leader is designated as an employee of such farm operator.

"b. Domestic service after December 31, 1977, in a private home, local college club or local chapter of a college fraternity or sorority performed for a person who paid cash remuneration of \$1,000.00 or more in any calendar quarter in the current calendar year or the preceding calendar year to individuals employed in such domestic service.

"For the purposes of this paragraph b the term 'domestic service' includes all service for a person in the operation and maintenance of a private household, local college club or local chapter of a college fraternity or sorority as distinguished from service as an employee in the pursuit of an employer's trade, occupation, profession, enterprise or vocation.

"(5) The term 'employment' shall include the service of an individual who is a citizen of the United States, performed outside the United States after December 31, 1971, (except in Canada or in the case of the Virgin Islands after December 31, 1971, and prior to January 1 of the year following the year in which the U. S. secretary of labor approves the Unemployment Compensation Law of the Virgin Islands under section 3304(a) of the Internal Revenue Code of 1954) in the employ of an American employer (other than service which is deemed 'employment' under the provisions of subdivision (8) or (9) of this subsection (a) or the parallel provisions of another state's law), if:

"a. The employer's principal place of business in the United States is located in this state; or

"b. The employer has no place of business in the United States, but:

"1. The employer is an individual who is a resident of this state; or

"2. The employer is a corporation which is organized under the laws of this state; or

"3. The employer is a partnership or a trust and the number of the partners or trustees who are residents of this state is greater than the number who are residents of any other state; or

"c. None of the criteria of paragraphs a and b of this subdivision (5) is met but the employer has elected coverage in this state, or the employer having failed to elect coverage in any state, the individual has filed a claim for benefits, based on such service, under the law of this state.

"d. An 'American employer,' for the purpose of this subsection, means a person who is:

"1. An individual who is a resident of the United States; or

"2. A partnership, if two-thirds or more of the partners are residents of the United States; or

"3. A trust, if all of the trustees are residents of the United States; or

"4. A corporation organized under the laws of the United States or of any state.

"e. For the purposes of this subdivision (5), the term 'United States' include the states of the United States, the District of Columbia, the Commonwealth of Puerto Rico, and in the case of the Virgin Islands, after December 31 of the year in which the U. S. secretary of labor approves the Virgin Islands' Unemployment Insurance Law for the first time.

"(6) Notwithstanding subdivision (8) of this subsection (a), all service performed by an officer or a member of the crew of an American vessel on or in connection with such vessel, if the operating office from which the operations of such vessel operating on navigable waters within, or within and without, the United States are ordinarily and regularly supervised, managed, directed and controlled, is within this state.

"(7) Notwithstanding any other provisions of this section, service with respect to which a tax is required to be paid under any federal law imposing a tax against which credit may be taken for contributions required to be paid into a state unemployment fund or which as a condition for full tax credit against the tax imposed by the Federal Unemployment Tax Act is required to be covered under this chapter.

"(8) Subject to the other provisions of this section, the term 'employment' shall include an employee's entire service, performed within or both within and without this state if:

"a. The service is localized in this state; or

"b. The service is not localized in any state but some of the service is performed in this state and the base of operations, or, if there is no base of operations, then the place from which such service is directed or controlled is in this state, or the base of operations or place from which such service is directed or controlled is not in any state in which some part of the service is performed, but the employee's residence is in this state;

"c. Service shall be deemed to be localized within a state if the service is performed entirely within such state, or the service is performed both within and without such state, but the service performed without such state is incidental to the employee's service within the state; for example, service which is temporary or transitory in nature or consists of isolated transactions;

"d. The service shall be deemed to be localized in this state wherever such service is performed within the United States, as defined in paragraph e of subdivision (5) of subsection (a) of this section, if such service is not covered under the unemployment compensation law of any other state, as defined in section 25-4-14, and the place from which such service is directed or controlled is in this state.

"(9) Services not covered under subdivision (8) of this subsection (a) and performed entirely without the state, with respect to no part of which contributions are required and paid under an unemployment compensation law of any other state or of the federal government, shall be deemed to be employment subject to this chapter if the employee performing such service is a resident of this state and the director approves the election of the employing unit for whom such services are performed. The entire service of such employee shall be deemed to be 'employment' subject to this chapter.

"(10) The term 'employment' includes a person's entire services if such service is deemed performed in this state by virtue of reciprocal agreements pursuant to the provisions of section 25-4-120 and does not include any service which by virtue of such agreement is deemed performed in another state.

"(b) The term 'employment' shall not include:

"(1) Except as provided in paragraph a of subdivision (4) of subsection (a) of this section, service performed by an individual in agricultural labor. For purposes of this chapter, the term 'agricultural

labor' means any service performed prior to January 1, 1978, which was agricultural labor as defined in this section prior to such date, and remunerated service performed after December 31, 1977, if such service was performed:

"a. On a farm, in the employ of any employing unit, in connection with cultivating the soil, or in connection with raising or harvesting any agricultural or horticultural commodity, including the raising, shearing, feeding, caring for, training and management of livestock, bees, poultry and fur-bearing animals and wildlife.

"b. In the employ of the owner or tenant or other operator of a farm, in connection with the operation, management, conservation, improvement or maintenance of such farm and its tools and equipment, or in salvaging timber or clearing land of brush and other debris left by a hurricane, if the major part of such service is performed on a farm.

"c. In connection with the production or harvesting of any commodity defined as an agricultural commodity in Section 15(g) of the Agricultural Marketing Act, as amended (46 Stat. 1550, Sec. 3; 12 U.S.C. 1141j), or in connection with the ginning of cotton, or in connection with the operation or maintenance of ditches, canals, reservoirs, or waterways, not owned or operated for profit, used exclusively for supplying and storing water for farming purposes.

"d. In the employ of the operator of a farm, a group of operators of farms (or a cooperative organization of which such operators are members) in handling, planting, drying, packing, packaging, processing, freezing, grading, storing or delivering to storage or to market or to a carrier for transportation to market, in its unmanufactured state, any agricultural or horticultural commodities, but only if such operator or group of operators (or a cooperative organization of which such operators are members) produced more than one half of the commodity with respect to which service is performed; provided, however, the provisions of this paragraph shall not be deemed to be applicable with respect to service performed in connection with commercial canning or commercial freezing or in connection with any agricultural or horticultural commodity after its delivery to a terminal market for distribution for consumption.

"e. On a farm operated for profit if such service is not in the course of the employer's trade or business.

"As used in this subdivision, the term 'farm' includes stock, dairy, poultry, fruit, fur-bearing animal and truck farms, plantations, ranches, nurseries, ranges, greenhouses or other similar structures used primarily for the raising of agricultural or horticultural commodities, and orchards.

"(2) Prior to January 1, 1978, domestic services in a private home, local college club, or local chapter of a college fraternity or sorority and after December 31, 1977, if the provisions of paragraph b of subdivision (4) of subsection (a) of this section are not met.

"(3) Casual labor not in the usual course of the employer's trade or business performed after December 31, 1971, in any calendar quarter by an individual, unless the cash remuneration paid for such service is \$50.00 or more and such service is performed by an individual who is regularly employed by such employing unit to perform such service. For the purposes of this subdivision, an individual shall be deemed to be regularly employed to perform service not in the course of an employing unit's trade or business during a calendar quarter only if:

"a. On each of some 24 days during such quarter such individual performs such service for some portion of the day; or

"b. Such individual was regularly employed (as determined under paragraph a of this subdivision) by such employing unit in the performance of such service during the preceding calendar quarter.

"(4) Service performed by an individual in the employ of his or her son, daughter or spouse, and service performed by an individual under the age of 21 in the employ of his or her father or mother.

"(5) Prior to January 1, 1978, except to the extent set forth in subdivision (2) of subsection (a) of this section, service performed in the employ of this state, or any political subdivision thereof, or of any instrumentality of this state or its political subdivisions.

"(6) Prior to January 1, 1978, except as provided in subdivision (2) of subsection (a) of this section, service performed in the employ of any other state or any political subdivisions thereof, or any instrumentality of any one or more of the foregoing which is wholly owned by one or more such states or political subdivisions, and any service performed in the employ of any instrumentality of any one or more other states or their political subdivisions to the extent that the instrumentality is, with respect to such service, immune, under the Constitution of the United States from the tax imposed by section 3301 of the federal Internal Revenue Code.

"(7) Service performed in the employ of the United States government or of any instrumentality wholly owned by the United States, except that if the congress of the United States shall permit states to require any instrumentalities of the United States to make payments into an unemployment fund under this chapter, then to the extent permitted by congress and from and after the date as of

which such permission becomes effective, all of the provisions of this chapter shall be applicable to such instrumentalities and to services performed by employees for such instrumentalities in the same manner, to the same extent, and on the same terms as to all other employers and employing units; provided, however, if this state should not be certified by the secretary of labor under section 3304(c) of the federal Internal Revenue Code for any year, then the payment required of such instrumentality with respect to such year shall be deemed to have been erroneously collected within the meaning of article 3 of this chapter and shall be refunded by the director from the fund in accordance with the provisions of section 25-4-137.

"(8) Except to the extent set forth in subdivision (3) of subsection (a) of this section, service performed in the employ of a corporation, community chest, fund or foundation organized and operated exclusively for religious, charitable, scientific, literary or educational purposes, or for the prevention of cruelty to children or animals, no part of the net earnings of which inures to the benefit of any private shareholder or individual, and no substantial part of the activities of which is carrying on propaganda, or otherwise attempting to influence legislation.

"(9) Service performed after June 30, 1939, with respect to which unemployment compensation is payable under the Railroad Unemployment Insurance Act of congress (52 Stat. 1094, as amended) and services with respect to which unemployment compensation is payable under any other unemployment compensation system established by an act of congress; provided, however, that the director is hereby authorized and directed to enter into agreements with the proper agencies under such act or acts of congress, which agreements shall become effective 10 days after publication thereof in the manner provided in section 25-4-111 for general rules to provide reciprocal treatment to individuals who have, after acquiring potential rights to benefits under this chapter acquired rights to unemployment compensation under such act or acts of congress, or who have, after acquiring potential rights to unemployment compensation under such act or acts of congress, acquired rights to benefits under this chapter.

"(10) Service performed by an individual as an insurance agent or as an insurance solicitor, if all such service performed by such individual is performed for remuneration solely by way of commission.

"(11) Service performed, in the employ of a school, college or university, if such service is performed:

"a. By a student who is enrolled and is regularly attending classes at such school, college or university; or

"b. By the spouse of such a student, if such spouse is advised at the time such spouse commences to perform such service, that:

"1. The employment of such spouse to perform such service is provided under a program to provide financial assistance to such student by such school, college or university; and

"2. Such employment will not be covered by any program of unemployment insurance.

"(12) Service performed by an individual who is enrolled at a non-profit or public educational institution which normally maintains a regular faculty and curriculum and normally has a regularly organized body of students in attendance at the place where its educational activities are carried on, as a student in a full-time program, taken for credit at such institution, which combines academic instruction with work experience, if such service is an integral part of such program, and such institution has so certified to the employer, except this paragraph shall not apply to service performed in a program established for or on behalf of an employer or group of employers.

"(13) Service performed in the employ of a hospital, if such service is performed by a patient of the hospital as defined in subsection (e) of this section, or service performed as a student nurse in the employ of a hospital or a nurses' training school by an individual who is enrolled and is regularly attending classes in a nurses' training school chartered or approved pursuant to state laws, and service performed as an intern in the employ of a hospital by an individual who has completed a four-year course in a medical school chartered or approved pursuant to state law.

"(14) Service performed by an individual under the age of 19 in the delivery or distribution of **newspapers or shopping news**, not including delivery or distribution to any point for subsequent delivery or distribution.

"(15) Except as provided in subdivisions (2) and (3) of subsection (a) of this section, any employment or service which is excluded by the express statutory provisions of Section 3306 of the federal Internal Revenue Code as amended.

"(16) Service performed by an officer or member of the crew of a vessel which is not an American vessel. The term 'American vessel' means any vessel documented or numbered under the law of the United States, and includes any vessel which is neither documented nor numbered under the laws of the United States nor documented under the laws of any foreign country, if its crew is employed solely by one or more citizens or residents of the United States or corporations organized under the laws of the United States or of any state.

“(17) Service performed by an individual in (or as an officer or member of the crew of a vessel while it is engaged in) the catching, taking, harvesting, cultivating or farming of any kind of fish, shellfish, crustacea, sponges, seaweeds or other aquatic forms of animal and vegetable life (including service performed by any such individual as an ordinary incident to any such activity), except:

“a. Service performed in connection with the catching or taking of salmon or halibut for commercial purposes; and

“b. Service performed on or in connection with a vessel of more than 10 net tons (determined in the manner provided for determining the register tonnage of merchant vessels under the laws of the United States).

“(18) Service performed in the employ of a foreign government (including service as a consular or other officer or employee or a nondiplomatic representative).

“(19) Service performed in the employ of an instrumentality wholly owned by a foreign government if:

“a. The service is of a character similar to that performed in foreign countries by employees of the United States government or of an instrumentality thereof; and

“b. The director finds that the United States secretary of state has certified to the United States secretary of the treasury that the foreign government, with respect to whose instrumentality exemption is claimed, grants an equivalent exemption with respect to similar service performed in the foreign country by employees of the United States government and of instrumentalities thereof.

“(20) Except to the extent set forth in subdivision (3) of subsection (a) of this section, service performed in any calendar quarter in the employ of any organization exempt from income tax under Section 501(a) of the federal Internal Revenue Code (other than organizations described in section 401(a)) or under Section 521 of such Code, if the remuneration for such service is less than \$50.00.

“(21) Services performed for any governmental entity, institution or organization described in subdivisions (2) and (3) of subsection (a) of this section:

“a. In the employ of:

“1. A church or convention or association of churches; or

“2. An organization that is operated primarily for religious purposes and which is either operated, supervised, controlled, or principally supported by a church or convention or association of churches; or

"b. By a duly ordained, commissioned or licensed minister of a church in the exercise of his or her ministry or by a member of a religious order in the exercise of duties required by such order; or

"c. Except as provided in subdivision (7) of subsection (a) of section 25-4-8:

"1. Prior to January 1, 1978, in the employ of a school which is not an institution of higher education;

"2. After December 31, 1977, in the employ of a governmental entity referred to in paragraph b of subdivision (2) of subsection (a) of this section, if such service is performed by an individual in the exercise of duties:

"(i) As an elected official;

"(ii) As a member of a legislative body, or a member of the judiciary of this state or any of its political subdivisions;

"(iii) As a member of the state National Guard or Air National Guard;

"(iv) As an employee serving on a temporary basis in case of fire, storm, snow, earthquake, flood or similar emergency (this exclusion does not apply to permanent employees whose usual responsibilities include emergency situations);

"(v) In a position which, under or pursuant to the laws of this state, is designated as a major nontenured policymaking or advisory position or a policymaking or advisory position the performance of the duties of which ordinarily does not require more than 8 hours per week; or

"d. In a facility conducted for the purpose of carrying out a program of **rehabilitation for individuals whose earning capacity is impaired** by age or physical or mental deficiency or injury or providing remunerative work for individuals who because of their impaired physical or mental capacity cannot be readily absorbed in the competitive labor market by an individual receiving such rehabilitation or remunerative work; or

"e. As part of an unemployment work relief or work training program assisted or financed in whole or in part by any federal agency or an agency of a state or political subdivision thereof, by an individual receiving such work relief or work training; or

"f. For a hospital in a state prison or other state correctional institution prior to January 1, 1978, by an inmate of the prison or correctional institution and, after December 31, 1977, by an inmate of a custodial or penal institution.

"(22) Services performed by an individual as a qualified real estate agent. For the purposes of this chapter the term 'qualified real estate agent' shall mean an individual who is a sales person if:

"a. Such individual is a licensed real estate agent; and

"b. Substantially all of the remuneration for services performed as a real estate agent (whether or not paid in cash) is directly related to sales or other output (including the performance of services), rather than the number of hours worked, and

"c. The services performed by the individual are performed pursuant to a written contract between such individual and the person for whom the services are performed and such contract provides that the individual will not be treated as an employee with respect to such services for federal tax purposes.

"(23) Services performed by an individual as a direct seller. For the purposes of this chapter the term 'direct seller' shall mean any individual who:

"a. Is engaged in the trade or business of selling (or soliciting the sale of) consumer products to any buyer on a:

"1. Buy-sell basis, or

"2. Deposit-commission basis, or

"3. Any similar basis which the U.S. secretary of the treasury prescribes by regulations, for resale (by the buyer or any other individual), in the home or otherwise than in a permanent retail establishment; or

"b. Is engaged in the trade or business of selling (or soliciting the sale of) consumer products to a consumer in the home or otherwise than in a permanent retail establishment, and

"c. Substantially all of the remuneration for the services performed by such individual as a direct seller (whether or not paid in cash) is directly related to sales or output (including the performance of services) rather than to the number of hours worked, and

"d. The services performed by such individual are performed pursuant to a written contract between such individual and the person for whom the services are performed and such contract provides that the individual will not be treated as an employee with respect to such services for federal tax purposes.

"(c) 'Institution of higher education,' for the purposes of this chapter, means an educational institution which:

"(1) Admits as regular students only individuals having a certificate of graduation from a high school, or the recognized equivalent of such a certificate;

"(2) Is legally authorized in this state to provide a program of education beyond high school;

"(3) Provides an educational program for which it awards a bachelor's or higher degree, or provides a program which is acceptable for full credit toward such a degree, or a program of postgraduate or postdoctoral studies, or a program of training to prepare students for gainful employment in a recognized occupation.

"(d) For the purposes of this chapter the term 'educational institution' means an educational institution (including an institution of higher education as defined in subsection (c) of this section) in which:

"(1) Participants, trainees or students are offered an organized course of study or training designed to transfer to them knowledge, skills, information, doctrines, attitudes or abilities from, by or under the guidance of an instructor(s) or teacher(s).

"(2) It is approved, licensed or issued a permit to operate as a school by the state department of education or other government agency that is authorized within the state to approve, license or issue a permit for the operation of a school.

"(3) The courses of study or training which it offers may be academic, technical, trade, or preparation for gainful employment in a recognized occupation, as opposed to study or training in the social graces or skills or whose primary purpose is to provide baby sitting or day care services although some learning activities may be included.

"In any particular case, the question of whether or not an institution is an educational institution (other than an institution of higher education) within the meaning of the criteria described above will depend on what that particular institution actually does.

"(e) 'Hospital' means an institution which has been licensed, certified or approved by the state board of health or the state department of mental health and mental retardation as a hospital or a similar institution operated by the state or any of its political subdivisions or by an instrumentality of either of the foregoing.

"(f) If the services performed during one half or more of any pay period by an employee for the employing unit employing him or her constitute employment, all of the services of such employee for such period shall be deemed to be employment, but if the services performed during more than one half of any such pay period by an employee for the employing unit employing him or her do not constitute employment, then none of the services of such employee for such period shall be deemed to be employment. As used in this subsection the term 'pay period' means a period (of not more than 31 consecutive days) for which a payment or remuneration is ordinarily

made to the employee by the employing unit employing the employee.”

Section 2. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved May 25, 1993

Time: 2:03 P.M.

Act No. 93-752

H. 311 – Reps. Carter, Hammett

AN ACT

To provide further for the regulatory power of the Public Service Commission over tariffs, charges, schedules of rates, contracts, and reporting by house movers or other carriers of houses and other intact buildings; to amend Section 37-3-4 of the Code of Alabama 1975, to remove house movers or motor carriers of houses and other intact buildings from the requirement to file tariffs, showing all rates, fares, contracts, and schedules of charges, or the establishment or participation in any published rates, related to transporting a house or other intact building, for transportation with the Public Service Commission; to require that motor carriers of houses and other intact buildings shall comply with the remaining provisions of Chapter 3 of Title 37 of the Code of Alabama 1975.

Be It Enacted by the Legislature of Alabama:

Section 1. Section 37-3-4 of the Code of Alabama 1975, is amended to read as follows:

“§37-3-4.

“(a) This chapter shall not be construed to apply to:

“(1) a. School buses or other motor vehicles which are owned by county boards of education or under contract with county boards of education, regardless of whether or not the school buses and other motor vehicles are being used exclusively for the transportation of school children and school teachers to and from school and provided the school buses and other motor vehicles do not take on passengers for fare on a certificated route.

“b. Motor vehicles for hire while operating wholly within the limits of a city or incorporated town or within the police jurisdiction thereof, or between two or more incorporated towns or cities whose city limits join or are contiguous or whose police jurisdictions join or are contiguous.

“c. Motor vehicles while used in the transportation of property when the owner of the vehicle is legally and regularly engaged in

the business of selling such property and is the owner and has the legal title to the motor vehicle involved, also motor vehicles if engaged in hauling milk, livestock, coal, coke, logs, lumber, poles, pulpwood, cotton in bales, cottonseed, fertilizer, peanuts, potatoes or any other agricultural commodity of any kind (but not manufactured products thereof); or motor vehicles hauling road materials and paid by the state of Alabama, or paid by any county or other political subdivision thereof, or paid by any contractor performing work for the state of Alabama, or any county or other political subdivision thereof, for a distance not exceeding 50 miles; and motor vehicles used exclusively in the transportation of milk in thermal or artificially cooled bodies or containers; except, that this subsection shall not be construed to exempt from the provisions of chapter 19 of Title 40 any motor carrier who operates under a certificate or permit granted under the authority of the Alabama public service commission.

"All motor vehicles hauling property for hire and which are in any respect exempt under paragraph a of this subdivision (1) must, before transporting any exempt property, secure a permit from the department of revenue of the state of Alabama, which permit may be furnished without cost upon proper application where there are no legal objections thereto; and such permit shall be issued under reasonable rules and regulations promulgated by the department of revenue of the state of Alabama.

"(2) Motor vehicles owned or operated by or on behalf of hotels and used exclusively for the transportation of hotel patrons.

"(3) Motor vehicles owned and operated by the United States, this state or any county, municipality or other political subdivision of this state.

"(4) Motor vehicles controlled and operated by any farmer while used in the transportation of agricultural commodities and products thereof, whether for himself or another farmer, or in the transportation of supplies to or from the farm.

"(5) Motor vehicles controlled and operated by a bona fide cooperative association as defined by the General Agricultural Marketing Act, approved June 15, 1929, as amended, or organized or existing under any state cooperative marketing act, while used exclusively in the conduct of the business of such association.

"(6) Motor vehicles while used exclusively in the transportation of newspapers and magazines and United States mail.

"(7) Motor vehicles owned by a farmer used occasionally in transporting household goods and furniture.

"(8) Motor vehicles, except taxicabs or airport limousines, used primarily for hauling 14 or fewer passengers to and from their regular places of employment, including the organizers, sponsors or promoters of such vehicles where the operator of the vehicle is not otherwise engaged in transportation for hire and is engaged in a not-for-profit operation; provided, that the Alabama public service commission may require the operators of the motor vehicles to register with the public service commission, and the public service commission may inspect these motor vehicles as it deems necessary for purposes of safety.

"(9) Church owned buses used for carrying passengers to and from religious services, regardless of size and capacity.

"(b) In addition to all other exclusions and exemptions from the application of this chapter, there are hereby exempted from the operation and provisions of this chapter ambulances, hearses and wrecker services wherever used or operated in this state.

"(c) No motor carrier who transports property exclusively in open top dump truck and trailers without pneumatic loading and unloading devices shall be subject to any provisions of this chapter which require the filing of tariffs, schedules of charges or contracts or the establishment or participation in any published rates. Nothing contained herein, however, shall exempt any motor carrier providing service in such vehicles from complying with all other provisions of this chapter.

"(d) No house mover or motor carrier of houses and other intact buildings shall be subject to any provision of this chapter which requires the filing of tariffs, schedules of charges, or contracts, or the establishment or participation in any published rates. A house mover or motor carrier of houses or other intact buildings shall be subject to all remaining provisions of this chapter.

"Any carriage heretofore or hereafter conducted by motor carriers exclusively in vehicles pursuant to an otherwise lawful agreement shall not be declared invalid because it was not in compliance with any tariff, schedule of rates or contracts required by this chapter and no penalties, fines, assessments, or recovery of charges in excess of or below any prescribed rates may be levied against or recovered by any shipper or motor carrier as a result of said carriage."

Section 2. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved May 25, 1993

Time: 2:04 P.M.

Act No. 93-753

H. 412 – Rep. Butler

AN ACT

To amend Section 16-22-9, Code of Alabama, 1975, as amended, relating to sick leave banks by local boards of education so as to further provide for catastrophic sick leave provisions and to expand the provisions to apply to certain other educational and postsecondary institutions.

Be It Enacted by the Legislature of Alabama:

Section 1. Section 16-22-9, Code of Alabama, 1975, as amended, is hereby amended to read as follows:

“(a) The following terms shall have the following meanings, respectively:

(1) **EDUCATIONAL AUTHORITY OR AUTHORITY.** Each city and county board of education; the Alabama Institute for Deaf and Blind; the Department of Youth Services School District; the Alabama School of Fine Arts; the Alabama High School of Mathematics and Science; each two-year postsecondary institution under the authority and auspices of the State Board of Education; each public four-year postsecondary school postsecondary school or college.

(2) **EMPLOYEE.** Any person employed by the educational authority on a full-time or part-time basis.

(3) **CATASTROPHIC ILLNESS.** Any illness or injury so certified by a licensed physician which causes the employee to be absent from work for an extended period of time.

(b) An educational authority, upon the request of 10 percent of its full-time certificated and full-time support personnel, may at its discretion establish a sick leave bank plan for each of the two groups.

(c) Each plan shall allow each employee to deposit an equal number of days not to exceed five days of his or her earned sick leave into the bank. Such days so deposited shall then be available to be loaned to any participating employee whose sick leave has been exhausted.

(d) Upon agreement by an educational authority to establish a sick leave bank, the authority shall enact policies providing for uniform administration of the sick leave bank. Proposed rules and regulations for the operation of the sick leave bank shall be jointly developed by a committee comprised of equal numbers of representatives of the employees and the authority. Following the development of the proposed rules and regulations, the committee shall

submit said proposed rules and regulations to the employees and the authority for approval. The accounting and administration of the sick leave bank shall be the responsibility of the authority. Vacancies occurring on the committee shall be filled by the respective parties. No representative on the committee shall serve for a term longer than five years.

(e) The sick leave banks as may be established shall include the following regulations but shall not be limited only to these regulations, but no local school board shall adopt any regulation that conflicts with the general regulations:

(1) No employee shall be allowed to owe more than 10 days more than the employee has on deposit to the sick leave bank, unless over 50 percent of the participating members of the bank vote to extend said limit.

(2) Application for sick leave loans shall be developed by the committee.

(3) Upon the resignation or other termination of an employee who has an outstanding loan of sick leave days, said value of loan shall be deducted from the final paycheck and at the prevailing rate.

(4) A contributing employee to the program shall not be allowed to accumulate more days than allowed by law, including days accumulated in the sick leave bank.

(5) Participation in the sick leave bank shall at all times be voluntary on the part of the employee.

(6) Any alleged abuse of the use of the sick leave bank shall be investigated by the committee and, on a finding of wrongdoing, the employee shall repay all of the sick leave credits drawn from the sick leave bank and be subject to other appropriate disciplinary action as determined by the local school board.

Section 2. Catastrophic Sick Leave. Employees, at their discretion, may donate a specific number of days to the sick leave bank to be designated for a specific employee who is suffering a catastrophic illness as recognized and defined by the State Board of Education. Before sick leave days for a catastrophic illness may be donated, the employee who is to receive such days shall have no sick leave days remaining. Donated days shall become available for use by the particular employee who shall not be required to repay the days. Any employee who donates sick leave days to the sick leave bank for a particular employee suffering from a catastrophic illness shall be made to understand that such donated days are not to be recovered or returned to the donor; however, if a particular employee does not require all of the days donated to the

employee's credit, the days shall revert to the credit of those employees who donated the days in accordance with the guidelines adopted by the sick leave bank committee as provided in this chapter. No employee may donate more than 30 sick leave days, exclusive of the provisions of Section 1 of this act, to the sick leave bank for the catastrophic sick leave of any one employee. A sick leave bank is authorized to donate sick leave days to another sick leave bank for use by a particular employee who is suffering a catastrophic illnesses.

Section 3. REPEALER. All laws or parts of laws which conflict with this act are hereby repealed.

Section 4. SEVERABILITY. The provisions of this act are severable. If any part of this act is declared invalid or unconstitutional, such declaration shall not affect the part which remains.

Section 5. EFFECTIVE DATE. This act shall become effective immediately upon its passage and approval by the governor, or upon its otherwise becoming a law.

Approved May 25, 1993

Time: 2:05 P.M.

Act No. 93-754

H. 428 – Reps. Penry, Campbell, Mikell,
Clark (J), Turner, Butler,
Reasley, Thomas, Starkcy,
Carter, Ford, Box, Smith (R),
Black (L), Hammett,
Sanderson, Turnham,
McMillan, Powell, Laird,
Hooper, Richardson, Cullins,
McClain, Johnson

AN ACT

To amend Section 33-5-17, Code of Alabama 1975, relating to boat registration fees, to increase certain registration fees; to provide for the application of the fees to livery boats; and to delete certain provisions relating to livery boats.

Be It Enacted by the Legislature of Alabama:

Section 1. Section 33-5-17, Code of Alabama 1975, is amended to read as follows:

“Section 33-5-17.

"Vessels subject to the provisions of this chapter shall be classified according to the following schedule and annual fees charged by the department of conservation and natural resources for registration shall be in the following amounts:

Class 1. Less than 16 feet in length, \$11.00 plus \$1.00 issuance fee.

Class 2. Sixteen feet or over and less than 26 feet in length, \$15.00 plus \$1.00 issuance fee.

Class 3. Twenty-six feet or over and less than 40 feet in length, \$30.00 plus \$1.00 issuance fee.

Class 4. Forty feet or over in length, \$50.00 plus \$1.00 issuance fee.

The above stated fees shall also apply to livery boats.

Class 5. Dealer or manufacturer; temporary license, \$25.00 plus \$1.00 issuance fee for the first license purchased, and \$3.00 plus \$1.00 issuance fee for each additional license.

Section 2. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved May 25, 1993

Time: 2:06 P.M.

Act No. 93-755

H. 338 – Reps. Letson, Morrow

AN ACT

To amend Section 2-27-11 which requires persons who purchase and use restricted-use pesticides to be permitted so that a fee for the issuance and reissuance of a permit shall be from \$15 up to \$30 and that the exact amount shall be determined by rules adopted by the Board of Agriculture and Industries and that the permit fee prior to the adoption of said rules shall be \$15.

Be It Enacted by the Legislature of Alabama:

Section 1. Alabama Code (1975), Section 2-27-11, is hereby amended to read as follows:

"§2-27-11.

(a) Each person shall obtain a pesticide-use permit from the commissioner before such person is eligible to purchase and use a restricted-use pesticide. Application forms for such permits shall

be furnished by the commissioner, and the permit shall be valid and effective for a period of time to be established by rules and regulations of the state board of agriculture and industries unless sooner revoked by the commissioner for cause as specified in rules and regulations promulgated by the commissioner with approval of the state board of agriculture and industries.

(b) Before any person is authorized to purchase and use restricted-use pesticides for application or use thereof, such person shall meet certain qualifications to be prescribed pursuant to rules and regulations of the commissioner approved by the state board of agriculture and industries. Such regulations shall be designed to satisfy the requirements of the Federal Insecticide, Fungicide and Rodenticide Act, as amended, and to determine whether the user or applicator of restricted-use pesticides can use and apply such products in a manner that will not endanger or be injurious to human health and nontarget animals, wildlife, vegetation, crops and water or be detrimental to the general environment and whether such user is familiar with methods of safe storage, handling, use, applications and disposal of such pesticides and pesticide containers so as to avoid hazardous effects that may result from any improper use, handling or application of such products.

(c) In addition to any other requirement the applicant, for initial issuance or any reissuance of a permit to purchase and use restricted-use pesticides, shall pay to the commissioner a permit fee of not less than \$15 nor more than \$30 per category of certification to be determined by the state board of agriculture and industries through the adoption of rules and regulations. In determining the exact amount of the fee, the board shall take into consideration whether the permit holder is purchasing and using restricted-use pesticides for private or commercial purposes. Pending the adoption of rules, the permit fee shall be \$15. All monies collected under this section shall be deposited in the State Treasury to the credit of the agricultural fund."

Section 2. The provisions of this act are severable. If any part of the act is declared invalid or unconstitutional, such declaration shall not affect the part which remains.

Section 3. All laws or parts of laws which conflict with this act are hereby repealed.

Section 4. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved May 25, 1993

Time: 2:07 P.M.

Act No. 93-756

H. 554 – Reps. Buskey, Black (M), Spratt
AN ACT

To provide that each telecommunications utility and/or company that provides operator services shall ensure that a caller may access a live operator.

Be It Enacted by the Legislature of Alabama:

Section 1. Each telecommunications utility and/or company that provides operator service shall ensure that a caller may access a live operator through a method designed to be easily and clearly understandable and accessible to the caller. A telecommunications utility and/or company shall submit to the Public Service Commission the method by which the utility and/or company shall provide access to a live operator for review, except for a telecommunications utility and/or company that is under the jurisdiction, regulation, and rules of the Alabama Public Service Commission. This act applies regardless of the method by which the telecommunications utility and/or company provides the operator service. The requirements of this subsection shall not apply to telephones located in prison or jail facilities.

Section 2. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved May 25, 1993

Time: 2:08 P.M.

Act No. 93-757

H. 482 – Reps. Knight (A), Hill

AN ACT

To exempt from any state, county, and municipal sales taxes the sale of admissions for sporting events sponsored by the Senior Professional Golfers Association.

Be It Enacted by the Legislature of Alabama:

Section 1. The gross receipts from the sale of admissions to a sporting event conducted by the Senior Professional Golfers Association are exempted from any state, county, and municipal sales taxes.

Section 2. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved May 25, 1993

Time: 2:09 P.M.

Act No. 93-758

H. 410 – Rep. Buskey

AN ACT

To amend Section 16-39-2, Code of Alabama 1975, relating to the education of exceptional children, to delete the term socially maladjusted as a categorical condition which establishes eligibility for special education placement in public schools.

Be It Enacted by the Legislature of Alabama:

Section 1. Section 16-39-2, Code of Alabama 1975, is amended to read as follows:

“§16-39-2.

“For purposes of this chapter, the following words, terms, and phrases shall have the following respective interpretations:

“(1) **EXCEPTIONAL CHILDREN.** Persons between the ages of six and 21 years who have been certified under regulations of the state board of education by a specialist as being unsuited for enrollment in regular classes of the public schools or who are unable to be educated or trained adequately in the regular programs including, but not limited to: the mildly and moderately to severely retarded, and also the profoundly retarded; the speech impaired; the hearing impaired, deaf and partially hearing; the blind and vision impaired; the crippled and those having other physical handicaps not otherwise specifically mentioned herein; the emotionally conflicted; those with special learning disabilities; the multiple handicapped; and the intellectually gifted.

“(2) **HEREIN, HEREBY, HEREUNDER, HEREOF.** Refer to this chapter as an entirety and not solely to the particular section or portion thereof in which any such word is use.

“(3) **PLACEMENT COMMITTEE.** A committee designated and appointed by the superintendent for determining the eligibility of exceptional children for placement in special school programs or classes. The committee shall be composed of representatives from the fields of medicine, education, and psychology whenever practicable. The committee, after study of all data available on each exceptional child, shall make recommendations concerning each child's admission to a school program or class or withdrawal from a school program or class.

“(4) **RETARDED.** Having subaverage general intellectual functioning which:

“a. Either originates during the developmental period or results from brain damage caused by disease or physical injury occurring subsequent to the developmental period; and

“b. Is associated with impairment in adaptive behavior.

“(5) **SCHOOL BOARD.** A county, municipal, or other board of education in the state of Alabama and the school district associated therewith.

“(6) **SPECIALIST.** A physician, psychologist, psychometrist, or other professional personnel qualified pursuant to regulations established by the state board of education to examine children for the purpose of determining whether they are exceptional children.

“(7) **SPECIAL SERVICES.** Services relating to instruction of exceptional children (but not including the instruction itself) including, but not limited to: administrative services; transportation; diagnostic and evaluation services; social services; physical and occupational therapy; job placement; orientation and mobility training; brailist services and materials; typists and readers for the blind; special materials and equipment; and such other similar personnel, services, materials and equipment as may from time to time be approved by regulations adopted hereunder by the state board of education.

“(8) **SUPERINTENDENT.** The superintendent of a school board.

“The definitions set forth in this section shall be deemed applicable whether the words defined are used in the singular or plural.”

Section 2. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved May 25, 1992

Time: 2:10 P.M.

Act No. 93-759

H. 567 – Rep. Haynes

AN ACT

To amend Section 36-22-63, Code of Alabama 1975, relating to the purchase of prior service credit for participation in the supernumerary sheriff's program, to extend the time within which such a purchase may be made.

Be It Enacted by the Legislature of Alabama:

Section 1. Section 36-22-63, Code of Alabama 1975, is amended to read as follows:

“§36-22-63.

“Any sheriff, serving on July 19, 1979, of any county of this state who elects to participate in the supernumerary sheriff's program

shall receive service for supernumerary status for any time served as sheriff after July 19, 1979. Any sheriff, in order to receive service credit for prior service as a sheriff or law enforcement officer, shall pay into the county general fund an amount equal to the total contribution he or she would have made as a sheriff based on six percent of the current salary as sheriff for a period not to exceed five years or the time of prior service as sheriff whichever is lesser. Any prior service credit shall be purchased within two years of the effective date of the amendatory act adding this language. No sheriff shall be eligible to go on supernumerary status with less than five years of creditable service including prior service credit purchased as provided above."

Section 2. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved May 25, 1993

Time: 2:11 P.M.

Act No. 93-760

H. 414 – Rep. Gullatt

AN ACT

To amend Sections 11-46-5, 11-46-22, 11-46-24, and 17-9-4 of the Code of Alabama 1975, to authorize all municipalities having a general municipal election or run-off election required by general or local act at a time different from the dates now or hereafter provided by Article 2, Chapter 46, Title 11 of the Code of Alabama 1975, to elect by ordinance to have the election at the same time as required by Article 2; to change the date on which the mavor gives notice of a municipal election, to provide that where electronic voting machines are used in municipal elections, a number of electors not to exceed 1,200 may be assigned to each voting machine; and to provide the time at which the municipal governing body shall appoint election officers.

Be It Enacted by the Legislature of Alabama:

Section 1. Section 11-46-5 of the Code of Alabama 1975, is amended to read as follows:

"§11-46-5.

"The governing body of a municipality having a general municipal election or runoff election required by general or local act at a time different from the dates now or hereafter provided by article 2, chapter 46 of Title 11, may elect by ordinance to have the election at the same time required by article 2 and the election made by ordinance shall not have the effect of changing the beginning of a term of office or the time for taking office.

Section 2. Section 11-46-22 of the Code of Alabama 1975, is amended to read as follows:

“§11-46-22.

“(a) It shall be the duty of the mayor to give notice of all municipal elections by publishing notice thereof in a newspaper published in the city or town, and, if no newspaper is published in the city or town, then by posting notices thereof in three public places in the city or town. When the notice is of a regular election, the notice shall be published on the first Tuesday in July preceding the election or the first business day thereafter. When the notice is of a special election to be held on the second Tuesday in a month, the notice shall be published on or before the second Tuesday of the second month preceding the month in which the election will be held, except where otherwise provided by law. When the notice is of a special election to be held on the fourth Tuesday of a month, the notice shall be published on or before the fourth Tuesday of the second month preceding the month in which the election will be held, except where otherwise provided by law. Whenever and wherever two or more municipal offices of the same name (constituting a group) are to be filled at the regular election, prior to the first day of April preceding the election, the municipal governing body shall by ordinance designate each of the offices by number. When the offices have been designated by number, the notice of the election shall clearly indicate that the offices have been numbered and each candidate for the offices, in the announcement of his or her candidacy, shall designate the number of the office for which he or she is a candidate. Candidates may begin to qualify after the notice of election is given by the mayor.

“(b) The notice of an election for municipal officers shall be substantially in the following form:

“Notice of Election of Municipal Officers

“Notice is hereby given on (day of week), (date – month, day, and year) an election for the purpose of electing a mayor (or other chief executive) and the board of aldermen (town, city council, or other municipal governing body, or, if the positions on the governing board have been designated by number, the position numbers to be filled at the election) and the other officers as pursuant to duly enacted law or ordinance, or any or all of the officers, are to be elected at the election for the city (or town) of , Alabama, will be held, and that all registered and qualified electors of the state, who reside within the corporate limits of , Alabama, and have resided therein for 30 days or more immediately preceding the date of the election, and who are qualified to vote in the county precinct which embraces and covers

that part of the corporate limits of the city (or town) in which the elector resides, will be authorized to participate in the election.

“The polls will be opened at (here list the places of voting which have been designated pursuant to section 11-46-24).”

Section 3. Section 11-46-24 of the Code of Alabama 1975, is amended to read as follows:

“§11-46-24.

“(a) The municipal governing body may, when it orders an election, designate at least one place of voting in each ward and if the ward has been divided into voting districts then at least one place of voting in each district or the municipal governing body may establish and designate one central place (location) within the municipality as the place of voting for all wards. The number of voting boxes or voting machines as prescribed, shall be placed in a central place of voting for use by the electors. The municipal governing body shall provide at least one machine or at least one box for the voters of each ward. In each central place of voting where paper ballots are used the election officials shall consist of one returning officer, one chief inspector, who shall supervise the conduct of the other officials and the operation of the voting place, one inspector, and two clerks for each box. In the central place of voting where voting machines are used, the election officials shall consist of one chief inspector who shall supervise the conduct of the other officials and the operation of the voting place, one inspector, and one chief clerk and, for each voting machine to be used at the voting place there shall be appointed two assistant clerks. The election officials serving at voting places, shall be compensated for their services in the same manner and at the same rates provided by law for election officers pursuant to Section 11-46-27.

“In wards or voting districts where paper ballots are used in which there are more than 300 legal voters, or where mechanical voting machines are used and there are more than 600 legal voters, or where electronic voting machines are used and there are more than 1,200 legal voters, the municipal governing body may divide alphabetically the list of qualified voters in the ward or voting district into groups and assign each qualified voter a designated voting place and a designated box or voting machine in the ward or voting district.

“Nothing in this subsection shall be construed to require the municipal governing body to designate more than one voting place in a ward which has not been subdivided, nor more than one voting place in a voting district, nor to provide more than one ballot box for every 300 qualified electors when paper ballots are used, or more than one voting machine for every 600 qualified electors where mechanical voting machines are used or more than one voting

machine for every 1,200 qualified electors where electronic voting machines are used.

“(b) Notwithstanding the provisions of subsection (a) of this section or another provision of this article, the governing body of a municipality may establish in a ward or in the municipality where voting machines are used a voting center, which term means a place in the ward or municipality which the governing body designates as a place where a voting machine or voting machines will be maintained or operated at elections.

“The ordinance designating voting centers shall state the location of the voting center and, if the voting center shall be utilized in a ward, then the boundaries of the ward in which the electors shall reside to be entitled to vote at the voting center. The voting list furnished to the election officers serving at the voting center shall contain the names of all qualified electors of the ward or municipality on a single roll. If the roll contains more than 2,400 names, the list of qualified electors on the roll shall be divided into alphabetical sections of not more than 2,400 names per section.

“No elector shall vote at a voting center other than the voting center of the ward of which he or she is a qualified elector, but an elector eligible to vote at a voting center may vote on a voting machine maintained at the voting center upon presentation of the identification card issued to him or her by an election officer serving at the voting center.

“The municipal governing body shall determine the number of voting machines deemed necessary to serve adequately the voters at an election. There shall be maintained at each voting center at least one mechanical voting machine for each 600 qualified electors, or fraction thereof, or at least one electronic voting machine for each 1,200 qualified electors, or fraction thereof, residing in the ward served by the voting center.

“For each voting center where only one voting machine is to be used, the election officials shall consist of an inspector, a chief clerk, and a first and second assistant clerk. For each voting center where more than one voting machine is to be used, there shall be appointed one chief inspector, who shall supervise the conduct of the other officials and the operation of the voting center, one inspector and one chief clerk and, for each voting machine to be used at the center, there shall be appointed two assistant clerks. For each voting center where four or more voting machines shall be used, there may be appointed two additional assistant clerks for each group of four voting machines or fraction thereof.

“The municipal governing body shall, not less than 15 days before the holding of a municipal election, appoint from the qualified

electors of the municipality or the ward officers to hold the election as provided in this article.

"The officers shall perform all duties imposed on election officers by this article and in addition thereto the following duties: One of the election officers shall be assigned to each section of the voting list and the election officer shall issue to each elector at the time he or she checks the name off the list of qualified electors an identification card, which shall be presented to the assistant clerk in charge of the voting machine and surrendered to him or her when the voter enters the voting machine. The identification cards shall each have printed on them the words 'voter identification card' and they shall contain a space in which shall be entered the signature of the election officer who delivered the card to the elector. The identification card shall bear neither a number nor the name of the voter. Identification cards shall be procured by the same officer who procures other election supplies and shall be paid for from the same funds that the cost of other election supplies are paid. The assistant clerk in charge of the voting machine shall require that each voter sign at the machine a poll list before he or she shall be allowed to enter the machine to vote. A separate poll list of persons casting challenged votes shall be kept by the officials. The poll list shall be signed or the name of the voter recorded pursuant to section 17-7-15.

"The returns of the canvass as required by law shall be filled out and verified and shall show the number of votes cast for each candidate, the number of votes cast for and against a proposition submitted, and shall be signed and certified by the chief inspector, if any, an inspector, or chief clerk, and not less than two assistant clerks.

"Election officers serving at voting centers shall be compensated for their services in the same manner and at the same rates provided by law for election officers pursuant to section 11-46-27.

"It shall be the duty of all election officials to see that order is maintained in the polling place and the inspector shall see that the returns are filled out for each voting machine as required by law and delivered to the proper officials, that the records of the election relating to each machine are enclosed respectively in each machine and that the list of qualified voters, challenged ballots and one copy of each challenged oath and other records relating to the election in general are enclosed in the appropriate voting machine.

Section 4. Section 17-9-4 of the Code of Alabama 1975, is amended to read as follows:

"§17-9-4.

"Where voting machines have been adopted for a county, municipality, or other political subdivision of the state, or for a portion of the county, municipality, or other political subdivision, the

county commission or the municipal governing body shall, as soon as practicable and in no case later than six months after the adoption thereof, provide for each voting ward or precinct, or beat designated, one or more approved voting machines, in complete working order, and shall thereafter preserve and keep them in repair. In each voting place in which voting machines are used, the county commission or municipal governing body shall provide by rental, lease, or purchase, at least one mechanical voting machine for each 600 registered voters or fraction thereof, or at least one electronic voting machine for each 1,200 registered voters or fraction thereof. The county commission or municipal governing body may, at its discretion, elect not to install voting machines in a ward, precinct, or beat having less than 100 registered voters. The adoption of the use of voting machines by a county or municipality, upon a petition signed by a majority of the registered voters in the ward, precinct, or beat, the county commission or municipal governing body may be required to install voting machines in the ward or precinct or beat for use in an election held after 90 days from the filing of the petition. Upon the installation of voting machines in a voting place, the use of paper ballots shall be discontinued, except as otherwise provided. Wherever, by reason of a constitutional or other legal debt limitation, it shall be impossible for a county or municipality to provide voting machines by either rental, lease, or purchase for each election district, then it shall provide as many machines as it shall be possible to procure, and, as soon thereafter as possible, shall provide the remainder of the machines required hereunder. The machines provided shall be first installed in wards, precincts, or beats having the largest number of registered voters."

Section 5. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved May 25, 1993

Time: 2:12 P.M.

Act No. 93-761

H. 442 – Rep. Lindsey

AN ACT

To amend Sections 2-28-1, et seq.

Be It Enacted by the Legislature of Alabama:

Section 1. §2-28-1 is hereby amended to read as follows:

"§2-28-1.

When used in this chapter, the following terms shall have the following meanings, respectively, unless the context clearly indicates otherwise:

(1) **ENTOMOLOGICAL WORK.** Receiving fees for advice or prescriptions for the control or eradication of any insect pest or rodent or for actual spraying, dusting, fumigating, or any other methods used for the control or eradication of any insect pest or rodent.

(2) **PATHOLOGICAL WORK.** Receiving fees for advice or prescriptions for the control or eradication of any plant disease, for actual spraying, or any other methods used for the control or eradication of any plant disease.

(3) **HORTICULTURAL AND FLORICULTURAL WORK.** Receiving fees for landscaping and setting of plants, or for the sale of any plants for which the seller contracts to render future services.

(4) **TREE SURGERY WORK.** Receiving fees for tree surgery, including but not limited to, cavity filling or repair, bracing, cabling, and wound treatment of shrubs and trees. Tree surgery work shall not include pruning, feeding, budding, or grafting of trees, shrubs, or wounds made and treated during pruning.

(5) **STRUCTURAL PEST CONTROL WORK.** That branch or type of entomological, pest control, or eradication work which involves the performance of work or giving advice or prescriptions for compensation for the prevention, control, or eradication of insects, vermin, rodents, pest animals, fungi, or other wood destroying organisms in household structures, commercial buildings, or other structures by the use of insecticides, rodenticides, repellants, chemicals, mechanical devices, or structural modifications, as well as a fumigation of products, containers, structures, or transportation vehicles.

(6) **BRANCH OFFICE.** A place of business at an established location other than the main office having equipment and three or more employees directly engaged in structural pest control work from the place of business, which is a subdivision or branch of the main office, point of headquarters, or principal operation of the firm.

(7) **SUBOFFICE.** A place at an established location other than the main office or branch office having equipment and less than three employees directly engaged in structural pest control work from the location, which shall not be more than 100 road miles from the branch office or main office of the firm. It is not required that any employee of a suboffice be certified by the commissioner for the structural pest control work performed from the office.

(8) **CERTIFIED OPERATOR.** A person who has been certified by the commissioner as qualified to supervise the operation of a main office or a branch office.

(9) **BRANCH SUPERVISOR.** A person who has been certified by the commissioner as qualified to supervise the operation of a branch office only. In no event shall the person be qualified to supervise structural pest control work from a main office.

(10) **COMMISSIONER.** The Commissioner of Agriculture and Industries.

(11) **DEPARTMENT.** The Department of Agriculture and Industries.

(12) **WEED CONTROL WORK.** Receiving fees for advice or prescription for the control or eradication of any weed or for actual spraying or other methods used for the control and eradication of any plant which grows where not wanted.

(13) **CERTIFICATION.** The recognition by the Commissioner that a person competent and thus authorized to perform and/or supervise professional work or services in the category or categories listed on said certification permit.

(14) **CERTIFICATION PERMIT.** A document issued by the commissioner attesting that all standards have been met in competency in one or more categories and/or subcategories of professional work or services."

(15) **BUSINESS LOCATION.** Any location in or from which professional work or services are solicited, accepted, or conducted, and identified as a main office, branch office, or suboffice by permit.

Section 2. §2-28-3 is hereby amended to read as follows:

"§2-28-3.

The commissioner, with the approval of the State Board of Agriculture and Industries may adopt and promulgate rules and regulations that are reasonable and necessary to carry out the intent and purpose of this chapter and to regulate persons engaged in professional services or work defined in this chapter to prevent fraudulent and unauthorized practices of those professional services or work.

In order to ensure that persons issued a permit or certified under this chapter are capable of performing a high quality of workmanship and continue to meet the requirements of a changing technology and assure a continued level of competence and ability, the commissioner with the approval of the State Board of Agriculture and Industries, is hereby authorized and empowered to make rules and regulations with respect to:

1. The qualifications and residency requirements of an applicant for certification and a permit to engage in any one or more phases of professional work or service.
2. The type, frequency, and passing score of any examination given an applicant for certification and a permit under this chapter.
3. The methods and materials to be used in performing any work authorized by issuance of a permit and certification under this chapter.
4. Records to be made and maintained by persons issued a permit and persons certified under this chapter necessary for the commissioner to determine whether such persons are performing a high quality of workmanship.
5. Methods and procedures necessary and reasonable to protect the interests, health, safety, and welfare of the public and persons engaging in professional work or services where such work or services involve the use of pesticides.
6. The amount, kind and frequency of training required of any employee of persons issued a permit or certification where such professional work or services involves the application of pesticides.
7. Any other matter deemed necessary to be regulated."

Section 3. §2-28-4 is hereby amended to read as follows:

"§2-28-4. Permits required for performance of professional work or services governed by chapter; submission of statements as to training and experience by applicants, generally; testing and examination of applicants generally; issuance of permits generally; duration; permit fees, delinquent penalty, subcategories of structural pest control permits and fees.

(a) Permits generally; fees; delinquent penalty; subcategories of structural pest control permits and fees. Before any person engages in professional work or services as defined in this chapter or before any person shall solicit professional work or services through advertising or in any other manner, the person shall apply for and obtain from the commissioner an annual permit on forms furnished for this purpose accompanied with the annual permit fee which shall be \$100.00. Structural pest control work as defined in subdivision (5) of Section 2-28-1 shall be divided in the following subcategories: (1) Control of wood-destroying organisms by any method other than fumigation, (2) Control of industrial, institutional and household pests by any method other than fumigation, (3) Fumigation pest control. The annual permit fee for persons

engaged in the type of entomological work known as structural pest control work as defined in subdivision (5) of Section 2-28-1 shall be \$100.00 and \$50.00 for each subcategory of work a person is qualified to perform. Any person engaged in structural pest control work who conducts the work from more than one location or place of business that is a branch office as defined in subdivision (6) of Section 2-28-1 shall be required to obtain a branch office permit for each branch office, and the permit fee shall be \$50.00 for each branch office and \$50.00 for each subcategory of work a person is qualified to perform. If a person conducts structural pest control work from an additional location designated as a suboffice as defined in subdivision (7) of Section 2-28-1, the person shall be required to obtain a suboffice permit for each suboffice, and the permit fee shall be \$25.00 for each suboffice and \$50.00 for each subcategory of work a person is qualified to perform. All permits shall expire on September 30 and shall be renewed by October 1 upon payment of the annual permit fee prescribed by this subsection and upon compliance with the other requirements of this chapter. If the permit fee is not paid by November 1 or within 31 days from the date on which the fee is due, a delinquent penalty of \$50.00 shall be added to the amount.

(b) Number of permits required. When a person has qualified for a permit to perform more than one type or branch of professional work or services, other than structural pest control work, only one permit shall be required to be obtained by the person, and the permit shall specify each type of professional work or service that the person is authorized to perform. When a person has qualified for a permit to perform more than one type or branch of structural pest control work, the person shall be required to obtain only permit, that shall specify each type of work that the person is authorized to perform. Any person who performs structural pest control work from a branch office as defined in this section shall also be required to obtain a branch office permit for each branch office. Any person who performs structural pest control work from a suboffice as defined in this section shall also be required to obtain a suboffice permit for each suboffice.

(c) Statements of applicants as to training and experience; testing and examination; issuance of permits; disposition of fees. The commissioner, pursuant to rules and regulations promulgated pursuant to this chapter, may require applicants for a permit to submit statements as to training and experience in professional work or services, and applicants shall be required to pass any test or examination for each type of professional service or work as the commissioner may prescribe. An examination fee of \$50.00 shall accompany each application for each examination taken by the applicant. All permit fees and examination fees collected under

this subsection shall be deposited in the state treasury to the credit of the agricultural fund for the administration and enforcement of this chapter. Before a permit is issued to any applicant, the applicant shall be certified by the commissioner as qualified to perform the type of professional work or services for which a permit is desired. A full-time employee of an applicant who has been certified by the commissioner as qualified to perform the type or branch of professional work or service in which applicant desires to engage may be designated by the applicant as a supervisor to be in charge of and responsible for applicant's professional work or services, and the permit may be issued designating the employee as a supervisor."

Section 4. §2-28-5 is hereby amended to read as follows:

"§2-28-5.

(a) Every applicant for examination for a permit to engage in structural pest control work, including those who will be designated as certified operators or branch supervisors as provided for in Section 2-28-8, shall have a knowledge of the practical and scientific facts underlying the practice of structural pest control work and the necessary knowledge and ability to recognize and control those hazardous conditions which may affect human life and health. Applicants for certified operators' or branch supervisors' permits, before being eligible to take an examination for structural pest control work, shall present satisfactory evidence to the commissioner relative to his or her qualifications.

(b) Before a permit is issued to any applicant, the applicant shall be certified by the commissioner as qualified to perform the type or branch of professional work or service for which a permit is desired. Any full-time employee of the applicant who has been certified by the commissioner as qualified to perform the type or branch of professional work or service in which the applicant will engage may be designated by the applicant as a certified operator or branch supervisor to be in charge of and responsible for the applicant's professional work or service, and the permit may be issued naming that employee as certified operator or branch supervisor."

Section 5. Repeal §2-28-6 in its entirety.

Section 6. §2-28-8 is hereby amended to read as follows:

"§2-28-8.

(a) Conduct of business generally; operation and supervision of main offices, branches and suboffices. Every person who engages in structural pest control work shall conduct the work from an established location or place of business, and the person or

another individual as a full-time resident employee of the person who has been certified by the commissioner as being qualified for a permit as a certified operator shall be in charge of and responsible for the person's structural pest control work. The residence of the owner or an employee from which structural pest control work is conducted may be considered an established location. Where a person has more than one separate place of business or location, the person shall obtain a permit for each separate location or place of business, and each separate location from which structural pest control work is conducted, including a branch office but not including a suboffice, shall be under the full-time supervision of an individual who has been certified by the commissioner as qualified to conduct the type of structural pest control work that the person offers to perform. No person having a permit required under this chapter or who has been certified by the commissioner as qualified for a permit shall be assigned or designated to supervise the activities of more than one main or principal office or more than one branch office.

Work performed from a suboffice shall be under supervision of the main or a branch office of the firm which is not more than 100 road miles from the suboffice, and the supervisor at the main or branch office shall be responsible for the work of the suboffice. Every permit holder shall notify the commissioner in writing of any change of address or the opening or closing of an office, branch, or suboffice or change in certified operators or branch supervisors within 10 days after the change has been made.

(b) Additional requirements for structural pest control work. Any person who has been granted a right or a franchise from another person to conduct structural pest control work as a separate company, firm, or corporation shall qualify and comply with all of the requirements of this chapter before the company, firm, or corporation is entitled to a permit under this chapter authorizing it to engage in structural pest control work. Any individual, firm, or corporation who allows others to use its permit, or certification, or both to avoid compliance with this chapter shall be guilty of a violation of this chapter and shall be punished as prescribed and shall be subject to having their permit or certification or both revoked by the commissioner after hearing as provided in the Administrative Hearing Act.

Persons engaged in structural pest control work by the treatment of buildings or structures shall use for the treatment a chemical with a toxic or other effective base or employ other effective methods to be approved by the commissioner under regulations adopted by the State Board of Agriculture and Industries for this purpose. The department through its agents or employees may

enter upon any private premises at reasonable times to examine and test any chemicals or other methods used or employed for structural pest control work by any person engaged in that work. The department may, through its agents or employees, examine records of persons engaged in structural pest control work, including, but not limited to, contracts, invoices, guarantees, documents, and other records as are necessary to determine whether the requirements of this chapter are being complied with. Failure or refusal by persons engaged in structural pest control work to allow those agents or employees access to documents and records shall constitute a violation of this chapter and shall also be grounds for revoking its permit or certification or both.

In addition to the requirements of this chapter, each person who has been issued a permit to engage in structural pest control work, including, but not limited to, subterranean termite eradication or control work, shall have his or her unit or equipment marked for easy identification in accordance with rules and regulations authorized pursuant to this chapter."

Section 7. §2-28-9 is hereby amended to read as follows:

"§2-28-9.

Persons engaged in subterranean termite eradication and control work shall be required to file a monthly report with the commissioner containing such information relative to work performed as may be required by rules and regulations duly adopted as authorized under provisions of this chapter in order that it may be determined whether persons having been issued a permit are complying with the requirements of this chapter. Every person engaged in subterranean termite eradication and control work shall make an annual inspection of each job done during the term of the contract and shall report to the building owner in each instance as to whether or not there has been a reinfestation of subterranean termites. If a contract for termite eradication work provides for inspections of such work at intervals of less than one year, such inspections shall be made as required by the terms of the contract, and failure or refusal to make such required inspections or any retreatment or other related work as required by a contract shall constitute a valid and sufficient reason for revocation of the permit."

Section 8. Repeal §2-28-10 in its entirety.

Section 9. §2-28-13 is a new Section to read as follows:

§2-28-13. Financial Responsibility.

(a) The commissioner with the approval of the State Board of Agriculture and Industries may promulgate rules and regulations

which require any applicant for a permit to perform professional work or services to provide evidence of his ability to properly indemnify persons damaged in any manner by the use or application of pesticides. The amount and form of indemnification required shall be determined by rules and regulations promulgated by the commissioner with the approval of the State Board of Agriculture and Industries.

(b) The commissioner with the approval of the State Board of Agriculture and Industries, may promulgate rules and regulations requiring an applicant for a permit to perform professional work or services to furnish and file with the commissioner a surety bond payable to the State of Alabama. The surety bond shall be conditioned that the principal therein named shall honestly and in a skillful and workmanlike manner conduct and practice his said business or profession. The amount of this surety bond shall be determined by rules and regulations adopted and promulgated by the commissioner with the approval of the State Board of Agriculture and Industries.

(c) Any rules and regulations adopted pursuant to this section may provide for conditions, limitations, and requirements concerning financial responsibility required by this section as deemed necessary including, but not limited to, notice of reduction or cancellation of coverage and deductible provisions. Such rules and regulations may classify financial responsibility requirements according to the separate permit classifications and subclassifications. Failure or refusal to meet and maintain financial responsibility requirements as required by this section and rules and regulations shall constitute a valid and sufficient reason for revocation of any permit issued under this chapter.

Pending adoption of rules and regulations, the statutory requirements for bond and insurance shall remain in effect."

Section 10. §2-28-14 is a new Section to read as follows:

"§2-28-14. Certification Permit, issuance, duration, fees, and conditions for renewal of certification.

Persons certified by the commissioner shall be issued a certification permit upon which are designated the various categories and/or subcategories of professional work or services such person is authorized to perform or supervise. Persons certified shall be required to maintain this certification through continuing education. The amount, kind and frequency of continuing education required of a certified person shall be established pursuant to rules and regulations as authorized under this chapter. The fees for renewal of certification permit shall be \$30.00 per category and \$30.00 per subcategory of professional work or services that such

persons are certified to perform or supervise. The board shall promulgate rules and regulations which shall establish expiration and renewal schedules for certification permits issued under this chapter. Certification permit fees collected under this Section shall be deposited in the state treasury to the credit of the agricultural fund."

Section 11. The provisions of this act are severable. If any part of the act is declared invalid or unconstitutional, such declaration shall not affect the part which remains.

Section 12. All laws or parts of laws which conflict with this act are hereby repealed.

Section 13. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved May 25, 1993

Time: 2:13 P.M.

Act No. 93-762

S. 27 – Senator Mitchell

AN ACT

To amend Section 17-22A-7, Code of Alabama 1975, to provide that excess campaign contributions may not be used for any personal use and to limit campaign contributions during legislative sessions.

Be It Enacted by the Legislature of Alabama:

Section 1. Section 17-22A-7, Code of Alabama 1975, is amended to read as follows:

"§17-22A-7.

"(a) Amounts received by a principal campaign committee as contributions and any proceeds from investing such contributions that are in excess of any amount necessary to defray expenditures of the candidate represented by such committee, may be used by the candidate to defray any ordinary and necessary expenses, as defined in subsections (a), (b), and (e)(1) of Section 162 of Title 26 of U.S. Code, as it existed on May 5, 1993, incurred by him or her in connection with his or her duties as a holder of office, may be contributed by him or her to any organization described in section 170(c), section 501(c), or any other charitable, educational, or eleemosynary cause of Title 26 of U.S. Code, may be transferred to another political committee, or may be deposited into the State

General Fund or the Alabama Special Educational Trust Fund or any department or agency therein funded. Contributions to an office holder shall not be converted to personal use. For purposes of this act, personal use shall not include room, telephones, office expenses and equipment, housing rental, meals, and travel expenses incurred in connection with the duties as a holder of office.

“(b) Candidates for state offices and their principal campaign committees designated in the statement filed with the Secretary of State pursuant to Section 17-22A-4, Code of Alabama 1975, on behalf of persons seeking or holding those offices, may not solicit or accept, or both, contributions during the period when the Legislature is convened in session. For the purposes of this section, the Legislature is considered convened in session at any time from the opening day of the special or regular session and continuing through the day of adjournment sine die for that session. This subsection (b) shall not apply within 120 days of any primary, runoff, or general election and shall not apply to the candidates or principal campaign committees participating in any special election called by the Governor.”

Section 2. All laws or parts of laws which conflict with this act are repealed.

Section 3. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved May 25, 1993

Time: 2:15 P.M.

Act No. 93-763

S. 244 – Senator Langford

AN ACT

To amend Section 36-7-1, Code of Alabama 1975, to provide that Article 1, Chapter 7 of Title 36, Code of Alabama 1975, shall not apply to the use of credit cards issued in the name of the municipality by municipal officers and employees while on municipal business beyond the limits of the municipality nor shall the article apply to the use of credit cards issued in the name of the county by county officers and employees while on county business beyond the limits of the county.

Be It Enacted by the Legislature of Alabama:

Section 1. Section 36-7-1, Code of Alabama 1975, is amended to read as follows:

“§36-7-1.

“It shall be unlawful for an officer or employee of a county, town, or city in Alabama to be reimbursed from the treasury of a county or municipality for expenses incurred by him or her while traveling or remaining beyond the limits of counties and municipalities in the performance of his or her duties incidental to the management or control of the affairs of the county or municipality unless the officer or employee presents and has approved as provided for in this article an itemized statement of all expenses incurred. Nothing in this article shall be interpreted as applying to the use of credit cards issued in the name of the municipality by municipal officers and employees beyond the limits of the municipality for which they work. Nothing in this article shall be interpreted as applying to the use of credit cards issued in the name of the county by county officers and employees beyond the limits of the county for which they work.”

Section 2. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved May 25, 1993

Time: 2:16 P.M.

Act No. 93-764

S. 520 – Senator Horn

AN ACT

To make an appropriation from the State General Fund to the Epilepsy Foundation of Alabama for the fiscal year ending September 30, 1994 and to require an operations plan and an audited financial statement prior to release of any funds.

Be It Enacted by the Legislature of Alabama:

Section 1. For the fiscal year ending September 30, 1994, there is hereby appropriated to the Epilepsy Foundation of Alabama from the State General Fund the sum of \$100,000.

Section 2. Prior to release of any funds appropriated under this bill for fiscal year 1993-94, an operations plan for fiscal year 1993-94 and an audited financial statement for all operations during fiscal year 1991-92 must be forwarded to the Director of Finance. It is the intent to release fiscal year 1993-94 funds following receipt of these reports.

Section 3. This act shall become effective October 1, 1993.

Approved May 25, 1993

Time: 2:17 P.M.

Act No. 93-765

S. 637 – Senator Bailey

AN ACT

To make a supplemental appropriation from the General Fund in the State Treasury to the Alabama Commission on Aging for the Medicaid Waiver Program for the fiscal year ending September 30, 1993.

Be It Enacted by the Legislature of Alabama:

Section 1. There is appropriated from the General Fund in the State Treasury to the Alabama Commission on Aging for the Medicaid Waiver Program the sum of two hundred thousand dollars (\$200,000) for the fiscal year ending September 30, 1993. The appropriation herein shall be in addition to any and all other funds heretofore or hereafter appropriated to the Alabama Commission on Aging.

Section 2. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved May 25, 1993

Time: 2:18 P.M.

Act No. 93-766

S. 278 – Senator Foshee

AN ACT

To further provide for the implementation of the pilot project for a uniform system for electronic voting and for the electronic totaling of all votes cast on the voting machines and for the electronic transfer of election returns in the 1993 elections; to provide for reimbursement by the state of certain expenses of the county from savings from election expenses and election printing expenses; and to provide for orderly participation of counties in the program.

Be It Enacted by the Legislature of Alabama:

Section 1. The Secretary of State may implement a uniform system of electronic voting in any county participating in the pilot project for establishing a uniform system of electronic voting

provided for in Act No. 91-562. The Secretary of State may provide through the pilot project for the administration, and educational support of a uniform system to enable counties to immediately and electronically obtain all vote totals, and to enable a county to immediately transfer by electronic means all election vote totals, and other totals from a participating county directly to the office of the Secretary of State on a timely and economic basis.

Section 2. Any county participating in the pilot project may be eligible to receive funding from the state for 50 percent of the costs to lease purchase an electronic voting system for a period not to exceed eight years from funds appropriated for election purposes which may accrue from savings in administrative and printing expense through the use of electronic voting. The Secretary of State may use as a guideline in determining the funds available for state reimbursement for the pilot project to a participating county the amount of the state reimbursement to the counties for election purposes and printing costs who had leased election systems during the 1988, 1990, and 1992 election years. Any county participating in the pilot project may receive funding from the state for 50 percent of the annual county lease purchase payment for the electronic system in lieu of reimbursement to the county for future voting machine ballot printing costs.

Section 3. After the establishment of the uniform system of electronic voting through the implementation of the pilot project, the Secretary of State may provide for the orderly acceptance of counties requesting to participate in the state uniform system. The Secretary of State may establish a list of counties requesting to participate in the state uniform system based on the order of receipt of the resolution of a county governing body. After the Secretary of State has accepted a county in the state uniform system, a county may be eligible for reimbursement of 50 percent of the costs of a lease purchase agreement or contract of not more than eight years in length to purchase an electronic voting system established by the pilot project. A county may be eligible for reimbursement only after the receipt of a voucher from the county governing body with a copy of a lease purchase agreement or contract meeting the specifications of this act attached. The state may continue to annually reimburse the county for 50 percent of the lease purchase agreement or contract which payment may be in lieu of voting machine ballot printing costs payments by the state to the participating county in the future.

Section 4. This act may become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved May 25, 1993

Time: 2:20 P.M.

Act No. 93-767

H. 133 – Rep. Turnham

AN ACT

To provide that any member of the Employees' or Teachers' Retirement System, who, not more than one year prior to becoming a member of the system, was a member of the Judicial Retirement Fund, may elect to transfer his or her creditable service and accumulated contributions from the Judicial Retirement Fund to the Employees' or Teachers' Retirement System; to amend Section 12-18-5 of the Code of Alabama 1975; and to amend Section 12-18-110 of the Code of Alabama 1975, to allow the transfer of certain contributions and creditable service from the Employees' or Teachers' Retirement System to the Judicial Retirement Fund until a certain date.

Be It Enacted by the Legislature of Alabama:

Section 1. (a) Any member of the employees' or teachers' retirement system, who, not more than one year prior to becoming a member of the employees' or teachers' retirement system, was a member of the judicial retirement fund, may elect to transfer to the employees' or teachers' retirement system, his or her creditable service and accumulated contributions, including the contributions of the employer, in the judicial retirement fund, as provided in this act.

(b) Any member desiring to transfer the creditable service and contributions shall, after becoming a member of the employees' or teachers' retirement system, notify the board of control of the system, of his or her election to transfer the creditable service and, shall authorize transfer of the amount of his or her accumulated contributions to his or her credit in the judicial retirement fund to his or her account in the employees' or teachers' retirement system.

(c) The board of control transferring the creditable service and contributions shall thereupon certify to the boards of control of the employees' or teachers' retirement system and the judicial retirement fund, the amount of contributions and service creditable to the member at the time of separation from the transferring retirement system. The member shall be credited in the employees' or teachers' retirement system with the creditable service and accumulated contributions so certified.

Section 2. Section 12-18-5 of the Code of Alabama 1975, is amended to read as follows:

“§12-18-5.

“(a) Every justice of the supreme court, judge of the court of civil appeals, judge of the court of criminal appeals and judge of the circuit court of the state holding office on September 18, 1973, shall have the right of election to come under this article. Each

justice or judge holding office on September 18, 1973, shall have the right, within three years from September 18, 1973, to file with the clerk of the supreme court of Alabama, an instrument in writing electing to come under this article. Each justice or judge of such courts elected or appointed to office after September 18, 1973, shall come under this article as a matter of law. After September 18, 1973, each justice and each judge who has elected to come under this article as provided by this section or who comes under this article by operation of law shall contribute to the judicial retirement fund four and one-half percent of his earnable compensation; provided, that after February 1, 1977, the rate of contribution to be paid by the justices and judges shall be six percent of their salary derived from the state of Alabama, but the increased rate of contribution shall not be effective until February 1, 1977. The percentages shall be deducted by the state comptroller from each justice's or judge's salary and paid into the judicial retirement fund in the state treasury and credited to the individual account of the justice or judge from whose salary it was deducted.

“(b) Members of the retirement fund who heretofore, during a term for which they had been appointed or elected to a judicial office covered by this article for which prior service credit toward retirement under this article is given, entered the military services of the United States, and judicial officers covered by this article hereafter entering the armed forces of the United States who return to service as a justice or judge shall be given full credit for the time of such military service; provided, that a contribution shall be made into the judicial retirement fund in an amount equal to that which would have been contributed had the member remained and served in the judicial office to which he had been duly elected or appointed. Request for the service credit must be made within 90 days after returning to service as the justice or judge or ~~the service credit shall~~ be forfeited forever. When requests for the service credit have been approved by the board of control of the judicial retirement fund and the chief justice of the supreme court, contributions as required shall commence within 60 days and be made in equal payments within the following 12 months. Military service credit granted to a justice or a judge shall include credit for service during World War II, but, in computing any service with the armed forces for credit after World War II, service credit granted shall be limited to service for a period not to exceed five years, provided that the justice or judge was on official leave of absence from his or her judicial position and further provided that the length of service so granted shall not exceed the term of office for which the justice or judge had been appointed or elected prior to his or her entering military service.

“(c) The supreme court of Alabama may provide that the state shall pick-up member contributions to the judicial retirement

fund, as required by this section and section 12-18-52, on behalf of all appellate justices or judges, circuit and district judges who participate in the judicial retirement fund and that the counties shall pick-up member contributions to the judicial retirement fund, as required by section 12-18-81, on behalf of all probate judges who participate in the judicial retirement fund, by a corresponding reduction in the salary of the member, the pick-up to be mandatory for all the judges, and the contributions so picked up shall be treated as employer contributions in determining tax treatment under the Internal Revenue Code. These contributions shall be paid from the same source of funds which is used in paying earnings to the member. If member contributions are so picked up they shall be treated for all other purposes of state law in the same manner and to the same extent as member contributions made prior to the date picked up."

Section 3. Section 12-18-110 of the Code of Alabama 1975, is amended to read as follows:

"§12-18-110.

"(a) Any member of the judicial retirement fund who, not more than one year prior to becoming a member of the judicial retirement fund, was a member of the employees' retirement system of Alabama or the teachers' retirement system of Alabama may elect to transfer to the judicial retirement fund his or her creditable service and accumulated contributions in the employees' or teachers' retirement system, as provided in this article.

"(b) Any member desiring to transfer any creditable service and contributions shall notify the board of control of the employees' retirement system within one year after he or she becomes a member of the judicial retirement fund, or, if a member of the fund on May 19, 1993, then, within one year after May 19, 1993, of his or her election to transfer the creditable service and shall authorize transfer of the amount of his or her accumulated contributions to his or her credit in the employees' or teachers' retirement system to his or her account in the judicial retirement fund.

"(c) The board of control transferring the creditable service and contributions shall thereupon certify to the board of control of the employees' retirement system and to the judicial retirement fund the amount of contributions and service creditable to the member at the time of separation from the transferring retirement system. The member shall be credited in the judicial retirement fund with the creditable service and accumulated contributions so certified."

Section 4. Section 1 of this act shall become effective on the first day of the first month following its passage and approval by the Governor, or upon its otherwise becoming a law.

Section 5. Sections 2 and 3 of this act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved May 25, 1993

Time: 2:22 P.M.

Act No. 93-768

H. 572 – Reps. Knight (A), Mathis, Gaines

AN ACT

To amend Section 36-27-15.2, Code of Alabama 1975, relating to the granting of creditable service in the retirement systems for service out-of-state, to increase the creditable service allowable and authorize credit for either public education service or public service in other states.

Be It Enacted by the Legislature of Alabama:

Section 1. Section 36-27-15.2, Code of Alabama 1975, is amended to read as follows:

“§36-27-15.2

“(a) (1) Any member of the teachers’ retirement system of Alabama or any member of the employees’ retirement system of Alabama shall be eligible to receive up to ten years of creditable service for employment in public education in states other than Alabama, for prior service in public education in Alabama as a teacher’s aide or for regular full-time service with the teachers’ corps in the State of Alabama or for up to ten years of creditable service for public employment rendered in states other than Alabama, provided that the member of the retirement system claiming such credit shall have attained not less than 10 years of contributing membership service credit, exclusive of military service credit, under the retirement system of which he is a member; and, provided further, that such member performs and complies with the conditions prescribed in subdivision (2) of this subsection.

“(2) A member of the teachers’ or employees’ retirement system of Alabama, eligible under paragraph a. of this subdivision, may receive credit for public service rendered in states other than Alabama and for prior service in public education in Alabama as a teacher’s aide or for regular full-time service with the teachers’ corps in the State of Alabama as provided in subdivision (1) of this subsection, provided that as conditions precedent to the receipt of such credit:

"a. Such member shall contribute, prior to the date of his retirement, to his respective retirement system, for each year of out-of-state service credit, a percentage of his current annual earnable compensation or average final compensation, whichever is greater; the applicable percentage of said annual earnable compensation or average final compensation, whichever is greater shall be the sum of the prevailing percentage rates of employer and member contributions, as required by the most recent actuarial valuation;

"b. The public retirement system of such other state, county, city or other political subdivision thereof shall certify in writing to the applicable retirement system that the member had credit under said retirement system for the service claimed;

"c. The member shall claim, purchase and receive credit for out-of-state service in increments of not less than one year, unless such member's total or balance of out-of-state service is less than one year, in which event, he shall claim and purchase credit for the entire period.

"(b) Any person who is retired under the teachers' or employees' retirement system of Alabama may receive credit for out-of-state service and prior service in public education in Alabama as a teacher's aide or regular full-time service with the teachers' corps in the State of Alabama under the same conditions as is provided herein for active members, except that, in lieu of current compensation, the contribution shall be based on his average final salary at the time of retirement; and, provided, such person was retired on or before July 30, 1979; and, provided further, that such retired person makes his contribution in a lump sum prior to the expiration of a period being one year next following July 30, 1979. Any retirant so claiming and contributing the amount herein required shall have his retirement allowance redetermined on the basis of such additional creditable service, provided, that any increase in such retirant's retirement allowance shall be payable to him only throughout his life and shall not affect, alter, increase, decrease or in any other way change the amount payable to such retirant's estate or designated beneficiary or surviving spouse, except under the provisions of Option 1, whereunder the contributions made pursuant to this section shall be treated as part of the retirant's accumulated contributions.

"(c) Anything in this section to the contrary notwithstanding, a member shall not receive credit for such out-of-state service, teachers' aide service, or teachers' corps service where at the time of retirement he has credit or is entitled to any benefits whatsoever for the same service under any retirement or pension plan, including but not limited to TIAA-CREF, and which is wholly or

partly funded from public funds, or other moneys of public institutions of this or any other state or political subdivision thereof; provided, that nothing herein shall be construed to apply to participation in the federal social security program. In the event of disqualification of out-of-state service credit, contributions made under this section by the member shall be refunded to him.

“(d) The retirement system may deduct in 12 equal installments, from the retirement allowance payable to a retired member, any additional contribution necessary to pay the administrative cost incurred in granting the credit hereunder in the event its board of control and consulting actuary thereto determine that the amounts contributed by the member under the provisions hereof are insufficient to pay such administrative cost.”

Section 2. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved May 25, 1993

Time: 2:23 P.M.

Act No. 93-769

H. 662 – Reps. Johnson, Haynes

AN ACT

To amend Sections 32-6-4, 32-6-5, and 32-6-8 of the Code of Alabama 1975, to provide for an additional fee for issuance of a driver's license and a learner's permit and to provide that the increased fee shall be deposited into the Public Safety Law Enforcement Fund ~~and appropriated to the Department of Public Safety, from year to year for the purposes of this act~~; and to provide for the effective date of this act the first day of the second month following its enactment.

Be It Enacted by the Legislature of Alabama:

Section 1. Sections 32-6-4, 32-6-5, and 32-6-8 of the Code of Alabama 1975, are amended to read as follows:

“§32-6-4.

“(a) Upon the installation of a system for the issuance of drivers' licenses and nondriver identification cards with color photographs of licensees and nondrivers thereon, all licenses and identification cards and renewals of licenses issued in this state shall be issued in the following manner:

“(1) The person shall apply under oath to the judge of probate or license commissioner of the county of his or her residence for the driver's license or nondriver identification card or renewal of a

license upon a form which shall be provided by the director of public safety.

“(2) The judge of probate or license commissioner shall take a color photograph of the licensee with equipment to be furnished by the department of public safety to be attached to each application.

“(b) For the purpose of defraying the cost of issuing drivers’ licenses or nondriver identification cards with color photographs of the licensee or nondriver thereon, the judge of probate or license commissioner shall collect for each license or identification card the sum of twenty dollars (\$20) for a four-year license or an identification card, and the judge of probate or license commissioner shall give the licensee a driver’s license or identification card. The nondriver identification card shall bear no expiration date.”

“§32-6-5.

“At the close of business on Monday of each week when any application has been received or temporary instruction permit provided for in this article has been issued, the judge of probate receiving the application or issuing the permit shall prepare a report of the same upon a form which shall be provided by the director of public safety. One copy of the report, together with all applications received and copies of all permits issued, shall be forwarded to the director of public safety and one copy shall be retained by the judge of probate. On the tenth day of every month, the judge of probate shall prepare a report showing the number of applications received and permits issued and the amount of fees received during the previous calendar month; provided, that the report shall be prepared on the twentieth day of October, November, and December. One copy of the report shall be forwarded to the director of public safety, one to the comptroller, and one to the treasurer, and the judge of probate shall retain a copy. The judge of probate shall also at that time deliver to the treasurer the amount of all the fees collected, less \$1.50 for each driver license or identification card issued, which sum shall be retained by him or her. Except in counties where the judge of probate is compensated by fees, each \$1.50 retained by the judge of probate shall be paid into the public highway and traffic fund of the county. In counties where the judge of probate is compensated by fees, two fifths of each \$1.50 retained by the judge of probate shall be for his or her own use, and no other or further charge shall be made by him or her for services rendered in taking or receiving applications or issuing permits, and the remaining three fifths shall be paid into the public highway and traffic fund of the county. This section, providing for the allocation of the \$1.50 retained by the judge of probate in counties where the judge of probate is compensated by fees, shall not repeal any local statutes or general statutes of local application providing for a different allocation of the \$1.50. The funds remitted to the state

treasurer under this section, except for that portion representing five dollars (\$5) for each license or card issued, shall be deposited to the credit of the general fund and shall be appropriated for public safety use. From the funds remitted to the state treasurer, the portion representing five dollars (\$5) shall be deposited into the Public Safety Law Enforcement Fund which is hereby created within the State Treasury. All money deposited in the State Treasury to the credit of the Public Safety Law Enforcement Fund shall be expended for law enforcement purposes. No money shall be withdrawn or expended from the fund for any law enforcement purpose unless the money has been allotted and budgeted in accordance with Article 4 (commencing with Section 41-4-80) of Chapter 4 of Title 41 of the Code of Alabama 1975, and only in the amounts and for the law enforcement purposes provided by the Legislature in the general appropriations bill."

"§32-6-8.

"(a) Any person 16 years of age or older who, except for his lack of instruction in operating a motor vehicle, would otherwise be qualified to obtain a driver's license under this article may apply for a learner's license, and the judge of probate may issue the license upon a form which shall be provided by the director of public safety, entitling the applicant, while having the license in his or her immediate possession, to drive or operate a motor vehicle upon the highways for a period of four years, except when operating a motorcycle, the person shall be accompanied by a licensed driver who is actually occupying a seat beside the driver. At the time of applying for the license, the applicant shall pay to the judge of probate a fee of twenty dollars (\$20), and the judge of probate shall give the applicant a learner's license therefor on a form to be provided by the director of public safety. **The temporary instruction license may be renewed only by order of the director of public safety,** and in no case shall the original license be renewed or extended more than once. The judge of probate shall not issue the temporary instruction license until the applicant has undergone the same examination that a person applying for a driver's license is required by law to undergo, with the exception of the driving test, and produced a certificate to that effect signed by the proper examining officer.

"(b) Any person not less than 15 but under 16 years of age may obtain a learner's license to learn to operate a motor vehicle upon application to the judge of probate of the county in which he or she resides, which license shall entitle the person to operate a motor vehicle when he or she is accompanied by a parent or his or her legal guardian who is duly licensed in this state as a motor vehicle operator or when accompanied by a licensed or certified driving instructor who is actually occupying a seat beside the motor vehicle operator. The application for the learner's license must be accompanied by a

payment of a fee of twenty dollars (\$20), to be distributed as provided in section 32-6-5. The age of the applicant shall be substantiated by the applicant filing with the judge of probate a certified copy of his or her birth certificate. A learner's license issued under this subsection shall be in such form as the director of public safety may prescribe; it shall expire in four years; or when the holder subsequently applies for and receives a driver's license. The driver's license shall be issued for the remainder of the four year life of the learner's license at no additional fee, the certificate thereof shall be prima facie evidence that the license holder was 15 years of age or older on the date of its issuance. The license may be suspended or revoked in the same manner and for the same causes as a driver's license and may also be revoked for any violation of the terms and conditions on which it was issued. The judge of probate shall not issue such a license to any person until the applicant has undergone the same examination that a person applying for a driver's license is required by law to undergo, with the exception of the driving test, and has produced a certificate to that effect signed by the proper examining officer."

Section 2. In addition to any and all other funds heretofore or hereafter appropriated to the Department of Public Safety, there is appropriated from the Public Safety Law Enforcement Fund to the Department of Public Safety, for the fiscal year ending September 30, 1993, and each fiscal year thereafter sufficient funds, from any balances from year to year, to implement the purposes of this act.

Section 3. This act shall become effective on the first day of the second month following its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved May 25, 1993

Time: 2:25 P.M.

Act No. 93-770

H. 367 – Rep. Rich

AN ACT

To amend Section 13A-7-23.1 of the Code of Alabama 1975, to further provide for the crime of the desecration of any tomb, gravestone, monument, or container or memorial of human remains; and to increase the penalty for those actions where a person invades or mutilates the human corpse or remains to a Class C felony and to provide further for the punishment for the crime of desecration of an American Indian burial place.

Be It Enacted by the Legislature of Alabama:

Section 1. Section 13A-7-23.1 of the Code of Alabama 1975, is amended to read as follows:

“§13A-7-23.1.

“(a) Any person who willfully or maliciously injures, defaces, removes or destroys any tomb, monument, gravestone or other memorial of the dead, or any fence or any inclosure about any tomb, monument, gravestone or memorial, or who willfully and wrongfully destroys, removes, cuts, breaks or injures any tree, shrub, plant, flower, decoration, or other real or personal property within any cemetery or graveyard shall be guilty of a Class A misdemeanor.

“(b) Any person who willfully or maliciously desecrates, injures, defaces, removes, or destroys any tomb, monument, structure, or container of the human remains, and invades or mutilates the human corpse or remains shall be guilty of a Class C felony and upon conviction the person shall be punished as provided by law. Any person who maliciously desecrates an American Indian place of burial or funerary objects on property not owned by the person shall be guilty of a Class A misdemeanor and upon conviction the person shall be punished as provided by law.”

Section 2. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved May 25, 1993

Time: 2:26 P.M.

Act No. 93-771

H. 223 – Rep. Harper

AN ACT

To make appropriations for the ordinary expenses of the executive, legislative and judicial agencies of the State, for other functions of government, for debt service, and for capital outlay for the fiscal year ending September 30, 1994.

Be It Enacted by the Legislature of Alabama:

SECTION 1. The monies in Section 2 are appropriated from the named funds for the 1993-94 fiscal year to the state agencies indicated, as the amounts to be used to pay the expenditures of the named agencies, and are in lieu of all monies appropriated for these purposes in other sections of the Alabama Statutes.

For the purpose of this Act, the amounts herein for expenditures are listed by programmatic area and the total for all programs are shown by the source of funds. It is intended that only the herein named funds be appropriated in the amounts specified to the named agencies; and that the following definitions shall be applicable:

(a) "Appropriation Total" shall mean the aggregate total of all fund sources.

(b) "Program" shall mean specific governmental services required to achieve a specific objective. A program shall be directed to meeting the need of an identified clientele, or group of recipients or beneficiaries and shall be expended only for such purposes.

(c) "Capital Outlay" shall mean expenditures which result in the acquisition and/or addition to items, such as land or buildings, which have an appreciable and calculable period of usefulness in excess of one year, and shall be expended only for such purposes.

(d) "Debt Service" shall mean an expenditure for the payment of interest and principal on bonded debt obligations of the State, and shall be expended only for such purposes.

(e) "Federal and Local Funds" shall mean all gifts, grants, contributions, or entitlements, including grants by the Congress of the United States, municipalities or counties.

SECTION 2. There is hereby appropriated for the ordinary expenses of the executive, legislative, and judicial agencies of the State, for other functions of government, for debt service, and for capital outlay for the fiscal year ending September 30, 1994, to be paid out of any monies hereinafter specified, from such other funds and accounts as may be designated, or so much thereof as may be necessary, and the total amount to be expended for the items for which the appropriation is herein made shall not exceed the amount provided therefor, except as provided in the Budget Management Act of 1976, Sections 41-19-1 through 12, Code of Alabama 1975. Provided, however, that regardless of the ending date of any pay period which has been or may be established by the Legislature for the payment of salaries of state employees, the entire payment due shall be made from the fiscal year's appropriation in which the pay date falls.

Fund Sources Included In Appropriation Total		
General Fund	Earmarked Funds	Appropriation Total

2A. LEGISLATIVE:

1. EXAMINERS OF PUBLIC ACCOUNTS, DEPARTMENT OF:

(a) Legislative Support-Audit
Services Program

11,500,717

SOURCE OF FUNDS:

(1) State General Fund	10,700,717		
(2) Transfer from Revenue Department		200,000	
(3) Federal Funds		600,000	
Total Department of Exam- iners of Public Accounts.....	<u>10,700,717</u>	<u>800,000</u>	<u>11,500,717</u>

**2. LAW INSTITUTE, ALA-
BAMA:**

(a) Support of Other Edu- cational Activities Program ...			363,014
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SOURCE OF FUNDS:

(1) State General Fund	<u>363,014</u>		
Total Alabama Law Institute ..	<u>363,014</u>		<u>363,014</u>

3. LEGISLATIVE COUNCIL:

(a) Legislative Operations and Support Program.....			310,050
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SOURCE OF FUNDS:

(1) State General Fund	310,050		
Pursuant to Sections 29-6-1 et seq., Code of Alabama 1975.			
Total Legislative Council.....	<u>310,050</u>		<u>310,050</u>

**4. LEGISLATIVE FISCAL
OFFICE:**

(a) Legislative Operations and Support Program			1,131,291
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SOURCE OF FUNDS:

(1) State General Fund	<u>1,131,291</u>		
Total Legislative Fiscal Office ...	<u>1,131,291</u>		<u>1,131,291</u>

**5. LEGISLATIVE REFER-
ENCE SERVICE:**

(a) Legislative Operations and Support Program			1,692,085
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SOURCE OF FUNDS:

(1) State General Fund	<u>1,692,085</u>		
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Total Legislative Reference Service	1,692,085	1,692,085
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6. LEGISLATURE:

(a) Legislative Operations and Support Program		13,862,128
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It is the intent of the Legislature that (1) at least \$30,000 shall be allocated for the Senate Finance and Taxation Committee, \$30,000 shall be allocated for the Office of the Senate Pro Tempore and \$30,000 shall be allocated for the Senate Rules Committee, (2) at least \$90,000 shall be allocated for the Ways and Means Committee, the House Rules Committee and the office of the Speaker of the House, (3) \$7,000 shall be allocated to the permanent municipal government committee as required by Sections 29-2-60 through 29-2-62, Code of Alabama 1975, and (4) \$86,654 shall be allocated for the use of the Joint Fiscal Committee. The appropriation to the Legislature shall be expended under the provisions set forth in Section 29-1-22, Code of Alabama 1975.

(b) Capital Outlay Program		1,250,000
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SOURCE OF FUNDS:

(1) State General Fund	15,112,128	
Total Legislature	15,112,128	15,112,128

2B. JUDICIAL:

1. COURT OF CIVIL APPEALS:

(a) Court Operations Program ..		1,510,778
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SOURCE OF FUNDS:

(1) State General Fund	1,510,778	
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Total Court of Civil Appeals	<u>1,510,778</u>	<u>1,510,778</u>
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2. COURT OF CRIMINAL APPEALS:

(a) Court Operations Program..		2,405,961
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SOURCE OF FUNDS:

(1) State General Fund	<u>2,405,961</u>	
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Total Court of Criminal Appeals.....	<u>2,405,961</u>	<u>2,405,961</u>
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3. JUDICIAL BUILDING AUTHORITY, ALABAMA:

(a) Administrative Support Services Program		3,837,081
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SOURCE OF FUNDS:

(1) Judicial Building Authority Fund, Estimated.....	3,837,081	
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In accordance with Sections 41-10-260 through 41-10-284, Code of Alabama 1975.

Total Alabama Judicial Building Authority	<u>3,837,081</u>	<u>3,837,081</u>
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4. JUDICIAL INQUIRY COMMISSION:

(a) Administrative Services Program		121,780
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SOURCE OF FUNDS:

(1) State General Fund	<u>121,780</u>	
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Total Judicial Inquiry Commission.....	<u>121,780</u>	<u>121,780</u>
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5. JUDICIAL RETIREMENT FUND:

(a) Retirement Systems Program.....		1,625,000
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SOURCE OF FUNDS:

(1) State General Fund	<u>1,625,000</u>	
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Total Judicial Retirement Fund.....	<u>1,625,000</u>	<u>1,625,000</u>
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6. SUPREME COURT:

(a) Court Operations Program	4,953,276
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SOURCE OF FUNDS:

(1) State General Fund	4,953,276	
Total Supreme Court	4,953,276	4,953,276

7. SUPREME COURT LIBRARY:

(a) Court Operations – Library Service Program.....	1,199,874
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SOURCE OF FUNDS:

(1) State General Fund	959,874		
(2) State General Fund – Judicial Moving.....	200,000		
(3) Departmental Receipts.....		40,000	
Total Supreme Court Library ...	1,159,874	40,000	1,199,874

8. UNIFIED JUDICIAL SYSTEM:

(Administrative Office of Courts)

(a) Court Operations Program...	75,322,785
(b) Administrative Services Program	3,649,750
(c) DUI Referral Program	67,658
(d) Fringe Benefit Program, Estimated	545,000
(e) Court Equipment and Court Security Program	1,029,952
(f) Judicial Building Operations Program.....	3,837,081
(g) Court Automation Program..	600,000

SOURCE OF FUNDS:

(1) State General Fund	82,330,927
(2) State General Fund-Social Security-County Judicial, Estimated	545,000

(3) State General Fund Transfer-Juvenile Justice Coordinating Council.....	18,392		
In accordance with Section 12- 15-131, Code of Alabama 1975.			
(4) Court Referral Officer Fund.....		1,541,056	
In accordance with Sections 12-23-1 through 12-23-19, Code of Alabama 1975.			
(5) Juvenile Justice Fund – Balance Brought Forward		16,851	
(6) Court Automation Fund		600,000	
In accordance with Act 92-677.			
Total Unified Judicial System...	<u>82,894,319</u>	<u>2,157,907</u>	<u>85,052,226</u>

2C. EXECUTIVE:

1. ACADEMY OF HONOR,
ALABAMA:

(a) Historical Resources Man- agement Program.....			2,366
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SOURCE OF FUNDS:

(1) State General Fund	2,366		
As provided in Section 41-11- 6, Code of Alabama 1975, and an additional amount.			
Total Alabama Academy of Honor	<u>2,366</u>		<u>2,366</u>

2. ACCOUNTANCY, ALA-
BAMA STATE BOARD OF
PUBLIC:

(a) Professional and Occu- pational Licensing and Regu- lation Program			521,977
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SOURCE OF FUNDS:

(1) Alabama State Board of Public Accountancy Fund	521,977		
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As provided in Section 34-1-22, Code of Alabama 1975. In addition to the amounts appropriated hereinabove to the State Board of Public Accountancy, there is hereby appropriated such an amount as may be necessary to pay the refund of any application for license which may have been rejected by the Board or withdrawn by request of applicant.

Total Alabama State Board of Public Accountancy.....	521,977	521,977
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3. ADJUSTMENT, BOARD OF:

(a) Special Services Program..		556,946
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SOURCE OF FUNDS:

(1) State General Fund, Estimated	536,946	
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For expenditures as provided in Sections 31-3-2 and 36-30-2, Code of Alabama 1975.

(2) State General Fund-Administrative Costs.....	20,000	
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As provided by Section 41-9-73, Code of Alabama 1975.

Total Board of Adjustment	556,946	556,946
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4. AERONAUTICS, DEPARTMENT OF:

(a) Airport Development and Aeronautical Support Program.....		925,000
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(b) Civil Air Patrol Program ...		50,000
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SOURCE OF FUNDS:

(1) State General Fund	50,000	
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(2) Airport Development Fund-Aviation Fuel Tax		900,000
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As provided by Section 4-2-42,
Code of Alabama 1975.

(3) Airport Development Fund-Federal Funds		25,000	
Total Department of Aero- nautics	50,000	925,000	975,000

**5. AGING, COMMISSION
ON:**

(a) Planning and Advocacy for the Elderly Program	17,987,055
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Of the above appropriation,
\$12,000 shall be allocated to
the Limestone County Coun-
cil on Aging; \$4,000 shall be
allocated to the Life Enrich-
ment Center in McKenzie;
\$4,000 shall be allocated to
the East Brewton Senior
Citizens Center; \$4,000 shall
be allocated to the Weed
Nutrition Center in Anda-
lusia; \$40,000 shall be allo-
cated to the Wicksburg
Senior Citizen Center; and a
total of \$25,000 shall be allo-
cated to the Senior Citizen
Centers in Madison, Jackson
and DeKalb Counties.

(b) Economic Assistance Pro- gram.....	12,981,684
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SOURCE OF FUNDS:

(1) State General Fund	1,733,501		
(2) State General Fund- Medicaid-Waiver	2,799,798		
(3) Federal and Local Funds...		26,435,440	
Total Commission on Aging.....	4,533,299	26,435,440	30,968,739

The Commission on Aging shall
contract with the existing
Regional Planning Commis-
sions or Councils of Local
Governments and/or Area

Agencies on Aging to provide services for one-third of the State's present and future client slots for the program known as the "Medicaid Waiver Services Program-Home-and Community-Based Waiver for the Elderly and Disabled". The Commission on Aging shall not withdraw Area Agency on Aging designations or alter the funding relationships with existing Area Agencies on Aging and Regional Planning Development Commissions or Councils of Local Governments without the approval of the Board of Directors of the Alabama Commission on Aging and complying with all federal and state statutory and regulatory requirements. In addition to the above appropriation to the Commission on Aging, there is also hereby appropriated any funds accruing to the Commission as a result of the Attorney General and Morrisons Settlement, which shall be expended for nutritional services and which shall be distributed statewide to all area agencies on aging including those under councils of government on a pro rata basis.

6. AGRICULTURAL AND CONSERVATION DEVELOPMENT COMMISSION:

(a) Water Resource Development Program

2,058,063

SOURCE OF FUNDS:

(1) State General Fund-Transfer

1,908,063

(2) Interest Income.....	150,000		
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As provided in Section 9-8A-4.1, Code of Alabama 1975.

Total Agricultural and Conservation Development Commission.....	1,908,063	150,000	2,058,063
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7. AGRICULTURAL AND INDUSTRIAL EXHIBIT COMMISSION, ALABAMA:

(a) Agricultural Development Services Program			44,339
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SOURCE OF FUNDS:

(1) State General Fund	44,339		
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Total Alabama Agricultural and Industrial Exhibit Commission.....	44,339		44,339
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8. AGRICULTURAL CENTER BOARD:

(a) Agricultural Development Services Program			1,119,886
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(b) Alabama Equine Study Program			10,000
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SOURCE OF FUNDS:

(1) State General Fund	158,082		
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For expense and awarding of prizes for fairs as provided in Section 2-7-21, Code of Alabama 1975 and other livestock shows and exhibits and other activities.

(2) State General Fund-Operations	369,225		
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(3) State General Fund-Livestock Coliseum	207,579		
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(4) State General Fund-Alabama Equine Study Program.....	10,000		
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(5) Livestock Coliseum Fund..		385,000	
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Total Agricultural Center Board	744,886	385,000	1,129,886
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9. AGRICULTURE AND INDUSTRIES, DEPARTMENT OF:

(a) Administrative Services Program.....			2,263,878
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(b) Agricultural Inspection Services Program			11,163,821
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Of the above appropriation, \$75,000 shall be transferred to the Alabama Aquaculture Center in Gadsden, Alabama.

(c) Laboratory Analysis and Disease Control Program.....			4,208,827
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(d) Agricultural Development Services Program			1,865,637
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(e) Boll Weevil Eradication Program.....			1,600,000
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(f) Community Services Grant Program.....			400,000
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(g) Capital Outlay			400,000
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Of the above appropriation, \$200,000 shall be expended for a poultry diagnostic laboratory and \$200,000 shall be expended for the West Alabama Agricultural Pavilion in Autaugaville.

(h) The Alabama State Fair....			100,000
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SOURCE OF FUNDS:

(1) State General Fund	10,388,543		
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(2) Federal and Local Funds...		2,525,150	
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(3) Shipping Point Inspection Fund.....		4,378,000	
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Pursuant to Section 2-9-20 et seq., Code of Alabama 1975.

(4) Agricultural Fund.....		4,710,470	
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Total Department of Agriculture and Industries	10,388,543	11,613,620	22,002,163
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In addition to the above appropriation to the Department of Agriculture and Industries, there is hereby appropriated \$200,000 for the control of hog cholera and swine diseases to be conditioned on the availability of funds in the State General Fund, the recommendation of the State Finance Director and the approval of the Governor.

10. AIRPORT AUTHORITY, ALABAMA INTERNATIONAL:

(a) Airport Development and Aeronautical Support Program.....			623,700
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SOURCE OF FUNDS:

(1) State General Fund	96,800		
(2) Federal Funds		526,900	
Total Alabama International Airport Authority	96,800	526,900	623,700

The above appropriation is conditioned upon the Alabama International Airport site selection process being completed by October 1, 1993.

11. ALABAMA TRUST FUND BOARD:

(a) Administrative Program ...			57,321
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Of the above appropriation to the Administrative Program, \$25,498 shall be transferred to the Department of Conservation and Natural Resources Lands Management Fund.

SOURCE OF FUNDS:

(1) State General Fund	31,823		
(2) Forever Wild Land Trust Stewardship Account		25,498	
Total Alabama Trust Fund Board	31,823	25,498	57,321

12. ALCOHOLIC BEVERAGE
CONTROL BOARD, ALA-
BAMA:

(a) Product Management Program	27,885,558
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Of the above appropriation of \$27,885,558 to the Product Management Program, an amount up to \$350,000 may be expended for the credit card program.

(b) Enforcement Program	8,155,663
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The level and type of services to be provided by the Alcoholic Beverage Control Board for the Enforcement Program in fiscal year 1993-94 shall not be reduced below the level of services provided in this program in fiscal year 1992-93.

(c) Administrative Services Program	3,769,544
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The appropriation to the Alabama Alcoholic Beverage Control Board shall include a transfer to the Department of Mental Health of \$1,000,000, a transfer to the Department of Public Safety of \$2,000,000, and a transfer to the State General Fund of \$2,506,113. The above transfers shall be made from the operating funds of the Alcoholic Beverage Control Board and shall

not affect any distribution of revenue generated from the sale of alcoholic beverages.

SOURCE OF FUNDS:

(1) ABC Board Fund	39,810,765
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In addition to the above appropriations herein made, there is hereby appropriated for each additional retail store put into operation during the fiscal year, an amount equal to the sum required to install and operate the last comparable retail store put into operation by said Board. There is further appropriated to the Alabama Alcoholic Beverage Control Board, after provision has been made for the other expenditures herein authorized, such sums as are or may be necessary to purchase the alcoholic beverages which are essential to maintain adequate stocks and inventory for an economic and successful sales operation. In addition to the above appropriation, it is further provided that, in the event any county or municipality of the State shall, during the fiscal period covered by this appropriation by proper referendum, authorize the legal sale of malt and brewed beverages within such county or municipality there is further appropriated, in addition to the amount herein set out, an amount comparable to that expended during the prior fiscal year for beer and license tax supervision within counties or municipalities of similar

size and population. Provided, further that the amount appropriated herein shall be reduced in like manner in the event any county or municipality wherein malt and brewed beverages are now authorized by law to be sold shall, during the fiscal period covered by this appropriation by proper referendum, declare unlawful the sale in such county or municipality of such malt or brewed beverages.

Total Alabama Alcoholic Beverage Control Board.....	39,810,765	39,810,765
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13. ARCHITECTS, BOARD FOR REGISTRATION OF:

(a) Professional and Occupational Licensing and Regulation Program	252,500
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SOURCE OF FUNDS:

(1) Fund of the Board for Registration of Architects.....	252,500
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As provided in Section 34-2-41, Code of Alabama 1975.

Total Board for Registration of Architects	252,500	252,500
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14. ARCHIVES AND HISTORY, DEPARTMENT OF:

(a) Historical Resources Management Program.....	3,151,613
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SOURCE OF FUNDS:

(1) State General Fund	2,904,533
(2) Federal and Local Funds...	197,080
(3) Archives Historical Collections Fund	10,000

In accordance with Act 92-719.

(4) Archives Services Fund	40,000		
In accordance with Act 92-719.			
Total Department of Archives and History.....	<u>2,904,533</u>	<u>247,080</u>	<u>3,151,613</u>
15. ATTORNEY GENERAL, OFFICE OF THE:			
(a) Legal Advice and Legal Services Program		10,287,642	
(b) Fair Marketing Practices Program		649,678	
SOURCE OF FUNDS:			
(1) State General Fund	6,323,494		
(2) State General Fund - Drug Program	110,845		
(3) State General Fund - Consumer Protection	548,178		
(4) Federal and Local Funds...		1,304,803	
(5) Miscellaneous Receipts.....		2,500,000	
(6) Attorney General's Litiga- tion Support Fund.....		150,000	
In accordance with Section 36-15-4.2, Code of Alabama 1975.			
Total Office of the Attorney General	<u>6,982,517</u>	<u>3,954,803</u>	<u>10,937,320</u>
16. AUCTIONEERS, ALA- BAMA STATE BOARD OF:			
(a) Professional and Occupa- tional Licensing and Regula- tion Program		110,972	
SOURCE OF FUNDS:			
(1) State Board of Auctioneers Fund.....		<u>110,972</u>	
Total Alabama State Board of Auctioneers.....		<u>110,972</u>	<u>110,972</u>
17. AUDITOR, STATE:			
(a) Fiscal Management Pro- gram.....		737,452	

SOURCE OF FUNDS:

(1) State General Fund	737,452	
Total State Auditor	737,452	737,452

18. BANKING DEPARTMENT, STATE:

(a) Charter, License and Regulate Financial Institutions Program.....		3,881,448
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SOURCE OF FUNDS:

(1) Banking Assessment Fees..	3,322,844	
As provided in Section 5-2A-20, Code of Alabama 1975.		
(2) Loan Examination Fund ...	558,604	
As provided in Sections 5-2A-24, 5-16-38.1, and 5-18-5, Code of Alabama 1975.		
Total State Banking Department.....	3,881,448	3,881,448

19. BAR ASSOCIATION, ALABAMA STATE:

(a) Professional and Occupational Licensing and Regulation Program		2,172,287
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SOURCE OF FUNDS:

(1) State Bar Association Fund.....	1,520,600	
As provided in Sections 34-3-4 and 34-3-44, Code of Alabama 1975.		
(2) Federal and Local Funds...	651,687	
As provided in Sections 34-3-44, 34-3-17 and 34-3-18, Code of Alabama 1975.		
Total Alabama State Bar Association	2,172,287	2,172,287

20. BEAR CREEK DEVELOPMENT AUTHORITY:

(a) Water Resource Development Program		48,360
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SOURCE OF FUNDS:

(1) State General Fund	48,360		
Total Bear Creek Development Authority.....	48,360		48,360

21. BUILDING COMMISSION, STATE:

(a) Special Services Program..			1,494,854
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SOURCE OF FUNDS:

(1) State General Fund	838,187		
(2) Miscellaneous Funds		656,667	
Total State Building Commission.....	838,187	656,667	1,494,854

22. BUILDING RENOVATION FINANCE AUTHORITY, ALABAMA:

(a) Administrative Support Services Program			7,528,205
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SOURCE OF FUNDS:

(1) State General Fund-Transfer	2,571,668		
(2) Departmental Receipts, Estimated		4,956,537	

Total Alabama Building Renovation Finance Authority	2,571,668	4,956,537	7,528,205
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The above appropriation from the State General Fund to the Alabama Building Renovation Finance Authority is conditioned upon the development of a long-range building and rental policy for the State of Alabama and its agencies. Such policy shall be a joint agreement between the Department of Finance and the Joint Fiscal Committee. In addition to the above appropriation to the Building Renovation Finance Authority, there is hereby appropriated the sum of \$2.69 million for the restoration of buildings in the

Capitol Complex from any additional source of funds which may be identified for utilization by the Finance Director. The funds necessary for the operation and maintenance of the State Capitol shall be allotted from funds appropriated to the Building Renovation Finance Authority.

23. CAHAWBA ADVISORY COMMITTEE:

- (a) Historical Resources Management Program.....

20,469

SOURCE OF FUNDS:

- (1) State General Fund

20,469

Total Cahawba Advisory Committee

20,469

20,469

24. CHILD ABUSE AND NEGLECT PREVENTION BOARD:

- (a) Social Services Program....

705,166

In accordance with Sections 26-16-1 et seq., Code of Alabama 1975.

SOURCE OF FUNDS:

- (1) State General Fund-Transfer

455,166

- (2) Children's Trust Fund, Estimated.....

250,000

Total Child Abuse and Neglect Prevention Board

455,166

250,000

705,166

25. CHIROPRACTIC EXAMINERS, ALABAMA STATE BOARD OF:

- (a) Professional and Occupational Licensing and Regulation Program

113,800

SOURCE OF FUNDS:

- (1) Alabama State Board of Chiropractic Examiner's Fund

113,800

As provided in Section 34-24-143, Code of Alabama 1975.

Total Chiropractic Examiners...	113,800	113,800
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**26. CHOCCOLOCCO CREEK
WATERSHED CONSER-
VANCY DISTRICT:**

(a) Water Resource Develop- ment Program	25,000
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SOURCE OF FUNDS:

(1) State General Fund	25,000
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Total Choccolocco Creek Watershed Conservancy District.....	25,000	25,000
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**27. CHOCTAWHATCHEE-
PEA RIVERS WATERSHED
MANAGEMENT AUTHOR-
ITY:**

(a) Water Resource Develop- ment Program	158,219
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SOURCE OF FUNDS:

(1) State General Fund	158,219
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Total Choctawhatchee-Pea Rivers Watershed Manage- ment Authority.....	158,219	158,219
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**28. CONSERVATION AND
NATURAL RESOURCES,
DEPARTMENT OF:**

(a) State Land Management Program	1,689,511
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(b) Outdoor Recreation Sites and Service Program.....	29,342,658
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(c) Marine Police Program	3,501,574
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(d) Wildlife Game and Fish Program	18,116,767
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(e) Marine Resources Program	2,576,284
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(f) Administrative Services Program	4,381,989
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(g) Capital Outlay Program....	1,075,000
(h) Alabama Natural Heritage Program.....	25,498

The appropriation to the Department of Conservation and Natural Resources shall include Alabama's pro rata share of the Gulf States Marine Fisheries Commission operation expenses. The appropriation to the Department of Conservation and Natural Resources includes funds for the maintenance, staff and repair of the Governor's official beach mansion.

SOURCE OF FUNDS:

(1) State General Fund-Transfer-Parks.....	631,620
(2) State General Fund-Transfer-Game and Fish Fund..	157,604
To implement the provisions of Federal Regulation 50CFR 80.4(a)(3).	
(3) Game and Fish Fund-Licenses, Fines, Fees, Interest Income and Other Departmental Receipts.....	13,173,663
(4) Game and Fish Fund-Federal and Local Funds.....	5,810,500
(5) State Lands Fund	1,304,175

The funds hereinabove appropriated from the State Lands Fund includes funds for analyzing, cataloging and monitoring mineral reserves and the development thereof on State lands including water and offshore areas.

(6) State Lands Fund-Transfer From Forever Wild Land Trust Fund.....	385,336
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(7) State Lands Fund- Transfer From Forever Wild Land Stewardship Account ...	25,498
(8) Marine Resources Fund- Licenses, Taxes, Fines and Other Departmental Receipts	1,726,284
(9) Marine Resources Fund- Federal and Local Funds	900,000

In addition to the monies hereinabove appropriated from the Marine Resources Fund, all monies derived from contracts, grants or other agreements concerning or relating to marine biological research performed or accomplished at the Marine Resources Division Laboratory at Dauphin Island is hereby appropriated and may be expended by the Commissioner of Conservation on such Marine Resources Division programs or projects which he deems appropriate.

(10) Marine Police Fund- Licenses, Fines, Taxes and Other Departmental Receipts..	2,750,901
(11) Marine Police Fund- Federal and Local Funds	750,673
(12) State Parks Fund.....	594,790
(13) Parks Revolving Fund, Estimated	24,116,248
(14) State Parks Fund-Cig- arette Tax	4,000,000
(15) Administrative Funds	4,381,989

The funds hereinabove appropriated shall be payable as provided in Sections 9-2-1 et seq., Code of Alabama 1975.

Total Department of Con- servation and Natural Re- sources	789,224	59,920,057	60,709,281
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29. CONTRACTORS, STATE
LICENSING BOARD FOR
GENERAL:

(a) Professional and Occupational Licensing and Regulation Program.....	639,850
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SOURCE OF FUNDS:

(1) State Licensing Board for General Contractors Fund.....	639,850
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Pursuant to Section 34-8-25, Code of Alabama 1975. In addition to the amounts appropriated hereinabove to the State Licensing Board for General Contractors, there is hereby appropriated such an amount as may be necessary to pay the refund of any application for license which may have been rejected by the Board or application withdrawn by request of applicant.

Total State Licensing Board for General Contractors.....	639,850	639,850
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30. CORRECTIONS, DEPARTMENT OF:

(a) Administrative Services and Logistical Support Program.....	10,034,679
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(b) Institutional Services Corrections Program.....	140,354,083
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The Department of Corrections at its Limestone Correctional Facility shall furnish a bus, the necessary inmates and necessary security for community service.

(c) Correctional Agricultural and Industries Program	18,352,652
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The Department of Corrections shall not utilize any portion of its State General Fund appropriation to support the Correctional Industries

Program, for either the agribusiness element or the industries element.

(d) Capital Outlay Program..... 50,000

SOURCE OF FUNDS:

(1) State General Fund 141,578,854

(2) Department of Corrections
Industrial Revolving Fund 18,402,652

The Commissioner of the Department of Corrections is authorized to utilize funds herein appropriated as matching contributions, where required and appropriate, to generate additional funds which would effectively increase the appropriations for the Department of Corrections. Any such grant funds so generated and in direct support of the Department of Corrections' operations are also hereby appropriated.

(3) Drug Demand Reduction
Fund..... 150,908

In accordance with Sections 13A-12-280 through 13A-12-284, Code of Alabama 1975.

(4) Federal Funds 1,659,000

(5) Departmental Receipts..... 7,000,000

Total Department of Corrections 141,578,854 27,212,560 168,791,414

In addition to the above appropriation, there is hereby conditionally appropriated \$5,300,000 to the Department of Corrections from the State General Fund to be conditioned upon the availability of funds in the State General Fund, the recommendation of the Director of

Finance and the approval of the Governor. In addition, there is hereby appropriated \$500,000 for capital outlay to be conditioned upon the availability of funds in the State General Fund, the recommendation of the Director of Finance and the approval of the Governor.

31. COSMETOLOGY, ALABAMA BOARD OF:

(a) Professional and Occupational Licensing and Regulation Program	631,000
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SOURCE OF FUNDS:

(1) Alabama Board of Cosmetology Fund.....	631,000	
As provided in Section 34-7-42, Code of Alabama 1975.		
Total Alabama Board of Cosmetology	631,000	631,000

32. COUNSELING, ALABAMA BOARD OF EXAMINERS IN:

(a) Professional and Occupational Licensing and Regulation Program	166,640
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SOURCE OF FUNDS:

(1) Alabama Board of Examiners in Counseling Fund	166,640	
As provided in Section 34-8A-6, Code of Alabama 1975.		
Total Alabama Board of Examiners in Counseling	166,640	166,640

33. CREDIT UNION ADMINISTRATION, ALABAMA:

(a) Charter, License and Regulate Financial Institutions Program	608,812
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SOURCE OF FUNDS:

(1) Alabama Credit Union Administration Fund	608,812		
As provided in Section 5-17-7, Code of Alabama 1975.			
Total Alabama Credit Union Administration	608,812	608,812	

**34. CRIME VICTIMS COM-
PENSATION COMMISSION,
ALABAMA:**

(a) Special Services Program, Program, Estimated		984,625	
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SOURCE OF FUNDS:

(1) Alabama Crime Victims Compensation Commission Fund, Estimated	984,625		
To be expended in accordance with Sections 15-23-1 through 15-23-23, Code of Alabama 1975.			
Total Alabama Crime Victims Compensation Commission	984,625	984,625	

**35. CRIMINAL JUSTICE
INFORMATION CENTER,
ALABAMA:**

(a) Criminal Justice Informa- tion Services Program		3,144,250	
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SOURCE OF FUNDS:

(1) State General Fund	2,780,500		
(2) Miscellaneous Receipts		2,000	
(3) Federal and Local Funds ...		361,750	
Total Alabama Criminal Justice Information Center ...	2,780,500	363,750	3,144,250

In addition to the above appro-
priation, there is hereby con-
ditionally appropriated
\$1,300,000 to the Criminal
Justice Information Center
from the State General Fund

to be conditioned upon the availability of funds in the State General Fund, the recommendation of the Director of Finance and the approval of the Governor.

36. DEVELOPMENT OFFICE,
ALABAMA:

(a) Promotional Development Program Alabama Film Commission	269,410
(b) Administrative Services Program	294,000
(c) Industrial Development Program-Alabama Development Office	4,637,573

SOURCE OF FUNDS:

(1) State General Fund-Alabama Development Office	4,437,573		
(2) State General Fund-Office of Minority Business	183,920		
(3) State General Fund-Small-Business Office of Advocacy	110,080		
(4) State General Fund-Alabama Film Commission ...	269,410		
(5) Departmental Receipts		200,000	
Total Alabama Development Office	5,000,983	200,000	5,200,983

37. DIETETICS/NUTRITION PRACTICE, ALABAMA STATE BOARD OF EXAMINERS FOR:

(a) Professional and Occupational Licensing and Regulation Program	60,000
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SOURCE OF FUNDS:

(1) State Board of Dietetics/Nutrition Fund	60,000
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Total Alabama State Board of Examiners for Dietetics/ Nutrition Practice	60,000	60,000
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38. DISTRICT ATTORNEYS:

(a) Court Operations Program	15,158,140
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The proposed spending plan
included in the above total is
as follows:

Salaries of District
Attorneys3,329,796

For the use of the elected
Assistant District Attorney of
the Bessemer Division of the
10th Judicial Circuit...143,425

Salaries and expenses of
Supernumerary District
Attorneys1,167,254

For use in the District Attor-
ney's Office of the following
Judicial Circuits:

1st Judicial Circuit.....138,552

2nd Judicial Circuit160,550

3rd Judicial Circuit.....256,830

4th Judicial Circuit456,386

5th Judicial Circuit423,783

6th Judicial Circuit415,625

7th Judicial Circuit264,369

8th Judicial Circuit182,105

9th Judicial Circuit222,776

10th Judicial Circuit...500,976

11th Judicial Circuit...131,174

12th Judicial Circuit...342,354

13th Judicial Circuit...509,708

14th Judicial Circuit...176,346

15th Judicial Circuit...531,166

16th Judicial Circuit ...	257,669
17th Judicial Circuit ...	166,949
18th Judicial Circuit ...	318,209
19th Judicial Circuit ...	214,858
20th Judicial Circuit ...	310,958
21st Judicial Circuit....	203,986
22nd Judicial Circuit ..	230,052
23rd Judicial Circuit ...	456,728
24th Judicial Circuit ...	175,598
25th Judicial Circuit ...	174,800
26th Judicial Circuit ...	293,374
27th Judicial Circuit ...	198,364
28th Judicial Circuit ...	260,642
29th Judicial Circuit ...	315,368
30th Judicial Circuit ...	248,447
31st Judicial Circuit....	145,789
32nd Judicial Circuit ..	221,970
33rd Judicial Circuit ...	160,855
34th Judicial Circuit ...	136,640
35th Judicial Circuit ...	179,915
36th Judicial Circuit ...	128,887
37th Judicial Circuit ...	237,630
38th Judicial Circuit ...	216,113
39th Judicial Circuit ...	163,347
40th Judicial Circuit ...	133,592
Travel Expenses of District Attorneys	67,377
Investigators Subsistence-Section 36-21-2, Code of Alabama 1975.....	186,848

SOURCE OF FUNDS:

(1) State General Fund	15,158,140	
Total District Attorneys.....	15,158,140	15,158,140

39. ECONOMIC AND COMMUNITY AFFAIRS, ALABAMA DEPARTMENT OF:

(a) Administrative Support Program.....	6,880,833
(b) Planning Program	35,815,102

Of the above appropriation, at least \$600,000 shall be spent for the Regional Planning Commissions; \$10,000 for the town of Mooresville; \$48,400 for the Alabama Council of Economic Education; \$100,000 for the East Alabama Economic Development Council; and \$50,000 shall be spent for the Alabama Commission on Aerospace Science and Industry created by SJR 119 in the 1991 Regular Session.

(c) Special Services Program ..	23,494,905
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Of the above appropriation, \$77,440 shall be allocated to the Food Assistance Program through the Community Action Agencies of Montgomery and Elmore Counties; and at least \$842,160 shall be distributed to community action administering agencies based on their populations below the poverty level, provided however, that not more than 10% of each agency's allocation shall be expended for administration.

(d) Skills Enhancement and Employment Opportunities Program.....	63,950,000
(e) Energy Management Program.....	4,520,778
(f) Police Services Program.....	3,592,983

(g) Law Enforcement Planning and Development Program	11,797,800
(h) Surplus Property Program	1,762,749
(i) Water Resources Program..	1,337,590
(j) Community Services Grant Program	1,363,000

SOURCE OF FUNDS:

(1) State General Fund.	11,103,793		
(2) Federal and Local Funds...		135,375,035	
(3) Administrative Transfers and Other Departmental Receipts		6,349,163	
(4) Administrative Transfers from Federal-Donated Surplus Property Sales		1,029,152	
(5) Administrative Transfers from State-Owned Surplus Property Sales		658,597	
Total Alabama Department of Economic and Community Affairs	<u>11,103,793</u>	<u>143,411,947</u>	<u>154,515,740</u>

In addition to the above appropriation to the Alabama Department of Economic and Community Affairs, there is hereby appropriated to the Birmingham Transit Authority \$250,000 from the State General Fund to be conditioned only upon that entity not receiving such funding from any other available sources of funds. In addition to the above appropriation to the Alabama Department of Economic and Community Affairs, there is hereby appropriated \$750,000 from the State General Fund to the Economic Development

Revolving Loan Funds created pursuant to Act 90-650 to be conditioned upon the availability of funds in the State General Fund, the recommendation of the Finance Director and the approval of the Governor.

40. EDUCATION, DEPARTMENT OF:

(a) Rehabilitation Services Program	4,780,696
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SOURCE OF FUNDS:

(1) State General Fund-Homebound	1,870,341		
(2) State General Fund-Eye Injury Register	44,338		
(3) Federal and Local Funds...		2,866,017	
Total Department of Education..	1,914,679	2,866,017	4,780,696

41. ELECTRICAL CONTRACTORS, BOARD OF:

(a) Professional and Occupational Licensing and Regulation Program	94,000
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SOURCE OF FUNDS:

(1) Electrical Contractors Board fees	94,000		
As provided in Section 34-36-17, Code of Alabama 1975.			
Total Board of Electrical Contractors.....		94,000	94,000

42. ELK RIVER DEVELOPMENT AGENCY:

(a) Water Resource Development Program	3,782
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SOURCE OF FUNDS:

(1) State General Fund	3,782		
Total Elk River Development Agency	3,782		3,782

43. EMERGENCY MANAGEMENT AGENCY:

(a) Readiness and Recovery Program.....	20,494,771
(b) Transfer to County Emergency Management Agencies..	350,000

The above appropriation of \$350,000 is in addition to the regular allocations to county emergency management agencies.

SOURCE OF FUNDS:

(1) State General Fund	1,230,195		
(2) Federal and Local Funds...		19,614,576	
Total Emergency Management Agency.....	1,230,195	19,614,576	20,844,771

44. ENERGY BOARD, SOUTHERN STATES:

(a) Discovery and Development of Mineral, Energy and Water Resources, Geological Research and Topographic Mapping Program	23,130
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SOURCE OF FUNDS:

(1) State General Fund	23,130	
Total Southern States Energy Board	23,130	23,130

45. ENGINEERS AND LAND SURVEYORS, STATE BOARD OF REGISTRATION FOR PROFESSIONAL:

(a) Professional and Occupational Licensing and Regulation Program	610,000
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SOURCE OF FUNDS:

(1) Professional Engineers Fund.....	610,000
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As provided in Section 34-11-36, Code of Alabama 1975.

Total State Board of Registration for Professional Engineers and Land Surveyors....		610,000	610,000
46. ENVIRONMENTAL MANAGEMENT, DEPARTMENT OF:			
(a) Environmental Management Program			58,597,508
SOURCE OF FUNDS:			
(1) State General Fund-Transfer	4,869,950		
(2) State General Fund-Transfer to Water Pollution Control Authority.....	1,011,560		
(3) State General Fund-Transfer to Hazardous Substance Cleanup Fund.....	45,980		
(4) Environmental Management Fines and Fees.....		11,437,236	
As provided in Section 22-22A-11 Code of Alabama 1975.			
(5) Federal and Local Funds...		13,882,782	
(6) Federal Match-Water Pollution Control Authority ..		22,000,000	
(7) Transfer from Underground Storage Tank Trust Fund.....		200,000	
As provided in Section 22-35-9, Code of Alabama 1975.			
(8) Underground Storage Trust Fund Fees.....		4,400,000	
As provided in Section 22-35-5, Code of Alabama 1975.			
(9) Environmental Education Fund.....		750,000	
In accordance with Act 92-622.			
Total Department of Environmental Management.....	5,927,490	52,670,018	58,597,508

The Department of Environmental Management shall not utilize any portion of its State General Fund appropriation to support capital outlay, except capital outlay funds spent on renovations of the existing facility or expansion of the existing facility on or to the adjoining property.

47. ETHICS COMMISSION,
ALABAMA:

(a) Regulation of Public Officials and Employees Program			
			396,849

SOURCE OF FUNDS:

(1) State General Fund	396,849		
Total Alabama Ethics Commission.....	396,849		396,849

48. FARMERS' MARKET
AUTHORITY:

(a) Agricultural Development Services Program			225,121
(b) Capital Outlay Program			574,362

SOURCE OF FUNDS:

(1) State General Fund	42,718		
(2) State General Fund-Capital Outlay.....	574,362		
(3) Farmers' Market Authority Fund		182,403	
Total Farmers' Market Authority	617,080	182,403	799,483

49. FINANCE, DEPARTMENT OF:

(a) Fiscal Management Program.....			4,214,601
(b) Administrative Support Services Program			4,367,657

(c) Capital Outlay Program 25,000

SOURCE OF FUNDS:

(1) State General Fund	8,330,601		
(2) Miscellaneous Funds		276,657	
Total Department of Finance ..	8,330,601	276,657	8,607,258

In addition to the above appropriation to the Department of Finance, there is hereby appropriated \$1,600,000 from the State General Fund to be conditioned upon the availability of funds in the State General Fund, the recommendation of the Finance Director and the approval of the Governor.

50. FINANCE, DEPARTMENT OF – AIR TRANSPORTATION:

(a) Administrative Support Services Program 1,007,253

SOURCE OF FUNDS:

(1) State General Fund-Transfer	816,477		
(2) Departmental Receipts, Estimated		190,776	
Total Department of Finance-Air Transportation	816,477	190,776	1,007,253

51. FINANCE, DEPARTMENT OF – CAPITOL COMPLEX MAINTENANCE AND REPAIR:

(a) Administrative Support Services Program 8,742,189

SOURCE OF FUNDS:

(1) Capitol Complex Revolving Fund	8,742,189		
Total Department of Finance-Capitol Complex Maintenance and Repair		8,742,189	8,742,189

52. FINANCE, DEPARTMENT
OF – DATA CENTER RE-
VOLVING FUND:

(a) Administrative Support Services Program	27,231,541
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SOURCE OF FUNDS:

(1) Data Center Revolving Fund.....	27,231,541	
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Total Department of Finance- Data Center Revolving Fund ..	27,231,541	27,231,541
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It is the intent of the Legislature that the Data Systems Management Division-Department of Finance shall absorb \$180,000 in increased computer time usage for the State Personnel Department and shall continue to loan five (5) clerical employees to the State Personnel Department resulting from the implementation of Government Human Resources System (GHRIS) for the fiscal year beginning October 1, 1993.

53. FINANCE, DEPARTMENT
OF – MAIL AND SUPPLY:

(a) Administrative Support Services Program	6,837,942
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SOURCE OF FUNDS:

(1) Mail and Supply Revolving Fund	6,837,942	
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Total Department of Finance- Mail and Supply.....	6,837,942	6,837,942
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54. FINANCE, DEPARTMENT
OF – MOTOR POOL:

(a) Administrative Support Services Program	1,980,502
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SOURCE OF FUNDS:

(1) Motor Pool Revolving Fund.....	1,980,502	
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Total Department of Finance-Motor Pool	1,980,502	1,980,502
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55. FINANCE, DEPARTMENT OF – PRINTING AND PUBLICATIONS:

(a) Administrative Support Services Program	6,148,869
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SOURCE OF FUNDS:

(1) Printing and Publications Revolving Fund	6,148,869
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Total Department of Finance-Printing and Publications.....	6,148,869	6,148,869
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56. FINANCE, DEPARTMENT OF – RISK MANAGEMENT:

(a) Administrative Support Services Program	2,039,120
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SOURCE OF FUNDS:

(1) State Insurance Fund-Administration	1,240,167
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As provided in Sections 41-15-1, et seq., Code of Alabama 1975.

(2) General Liability Trust Fund-Administration	798,953
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As provided in Sections 36-1-6.1, et seq., Code of Alabama 1975.

Total Department of Finance-Risk Management	2,039,120	2,039,120
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57. FINANCE, DEPARTMENT OF – TELEPHONE REVOLVING FUND:

(a) Administrative Support Services Program	11,807,104
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SOURCE OF FUNDS:

(1) State General Fund-Transfer	1,606,828
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(2) Telephone Revolving Fund, Estimated	10,200,276		
Total Department of Finance-Telephone Revolving Fund	1,606,828	10,200,276	11,807,104
58. FOREIGN TRADE RELATIONS COMMISSION:			
(a) Special Services Program..			116,264
SOURCE OF FUNDS:			
(1) State General Fund	116,264		
Total Foreign Trade Relations Commission	116,264		116,264
59. FORENSIC SCIENCES, DEPARTMENT OF:			
(a) Forensic Science Services Program			8,254,676
SOURCE OF FUNDS:			
(1) State General Fund	7,169,411		
(2) Federal and Local Funds...	1,085,265		
Total Department of Forensic Sciences	7,169,411	1,085,265	8,254,676
60. FORESTERS, ALABAMA STATE BOARD OF REGISTRATION FOR:			
(a) Professional and Occupational Licensing and Regulation Program			45,000
SOURCE OF FUNDS:			
(1) Professional Foresters Fund	45,000		
As provided in Section 34-12-36, Code of Alabama 1975.			
Total Alabama State Board of Registration for Foresters	45,000		45,000
61. FORESTRY COMMISSION, ALABAMA:			
(a) Forest Resources Protection and Development Program.....			23,681,581
(b) Birmingham Metro Forestry Unit			96,800

(c) People Against A Littered State.....	101,640
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SOURCE OF FUNDS:

(1) State General Fund-Transfer	12,474,757		
(2) Federal and Local Funds...		4,396,531	
(3) Forestry Commission Fund		7,008,733	
Total Alabama Forestry Commission	12,474,757	11,405,264	23,880,021

Of the above appropriation to the Alabama Forestry Commission, \$2,365,902 shall be used for rural and community fire protection, and \$443,385 shall be used for forestry research, marketing, management and environmental improvement grants and \$25,000 shall be expended for the Pine Beetle Project at the University of North Alabama. Of the above appropriation, \$50,000 shall be expended at the Forestry Resource Center and \$25,000 shall be expended for the LBW Scenic Trail.

62. FOREVER WILD LAND TRUST, BOARD OF:

(a) Capital Outlay Program....	3,187,079
(b) Administration Program ...	826,280

Of the above appropriation to the Administration Program, \$385,336 shall be transferred to the Department of Conservation and Natural Resources Lands Management Fund and \$424,944 shall be transferred to the Alabama Trust Fund Forever Wild Land Trust Stewardship Account.

SOURCE OF FUNDS:

(1) Forever Wild Land Trust Fund.....	4,013,359		
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In accordance with the Constitutional Amendment adopted pursuant to Act 91-219.

Total Board of Forever Wild Land Trust.....	4,013,359	4,013,359	
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63. FUNERAL SERVICE, ALABAMA BOARD OF:

(a) Professional and Occupational Licensing and Regulation Program			157,500
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SOURCE OF FUNDS:

(1) Alabama Funeral Directors and Embalmers Fund.....	157,500		
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As provided in Section 34-13-23, Code of Alabama 1975.

Total Alabama Board of Funeral Service	157,500	157,500	
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64. GEOLOGICAL SURVEY:

(a) Discovery and Development of Mineral, Energy and Water Resources, Geologic Research and Topographic Mapping Program			3,190,565
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SOURCE OF FUNDS:

(1) State General Fund	2,272,114		
(2) Federal and Local Funds...		918,451	
Total Geological Survey	2,272,114	918,451	3,190,565

65. GORGAS MEMORIAL BOARD:

(a) Historical Resources Management Program			4,434
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SOURCE OF FUNDS:

(1) State General Fund	4,434		
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As provided in Section 41-9-220, Code of Alabama 1975, and an additional amount.

Total Gorgas Memorial Board...	4,434	4,434
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66. GOVERNOR'S CONTINGENCY FUND:

(a) Executive Direction Program.....		569,100
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SOURCE OF FUNDS:

(1) State General Fund	569,100	
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Total Governor's Contingency Fund.....	569,100	569,100
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67. GOVERNOR'S MANSION:

(a) Executive Direction Program.....		430,659
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(b) Capital Outlay Program....		60,000
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SOURCE OF FUNDS:

(1) State General Fund	490,659	
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Total Governor's Mansion.....	490,659	490,659
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68. GOVERNOR'S MANSION ADVISORY BOARD:

(a) Historical Resources Management Program.....		7,730
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SOURCE OF FUNDS:

(1) State General Fund	7,730	
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Total Governor's Mansion Advisory Board.....	7,730	7,730
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69. GOVERNOR'S OFFICE:

(a) Executive Direction Program.....		3,118,375
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SOURCE OF FUNDS:

(1) State General Fund	3,118,375	
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Total Governor's Office	3,118,375	3,118,375
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70. GOVERNOR'S OFFICE ON VOLUNTEERISM:

(a) Executive Direction Program.....		77,954
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SOURCE OF FUNDS:

(1) State General Fund	77,954	
Total Governor's Office on Volunteerism	77,954	77,954

71. HEALTH, DEPARTMENT OF PUBLIC:

(a) Personal Health Services Program	115,610,200
(b) Health Support Services Program	160,077,234

Of the amount appropriated to support local health department services, \$5,000.000 shall be used to provide a minimum staff in each of the 67 counties and the remaining shall be allocated to the counties on the basis of need and a match formula to be determined by the Department.

(c) Administrative Services Program	15,025,109
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SOURCE OF FUNDS:

(1) State General Fund	30,097,142
(2) Cigarette Tax-\$0.01 and \$0.02	1,600,000

As provided in Section 40-25-2 and Section 40-25-23, Code of Alabama 1975.

(3) Vital Statistics Fund	3,370,512
(4) Hospital Licensing Fund ...	400,000
(5) Emergency Medical Services Fund	64,000

As provided in Section 22-18-4, Code of Alabama 1975.

(6) Local Health Departments ..	118,750,581
(7) Nuclear Monitoring Fund ...	145,165
(8) Radiation Safety Fund	1,337,723
(9) Miscellaneous Funds	15,053,968

(10) Federal Funds	37,962,879		
(11) WIC Funds	81,430,573		
(12) The Alabama Legacy for Environmental Research Trust Fund	500,000		
In accordance with Act 92-658.			
Total Department of Public Health	30,097,142	260,615,401	290,712,543

Of the above appropriation to the Department of Public Health, at least \$2,000,000 shall be spent on perinatal projects. The Department of Public Health will reimburse to the Alabama Medicaid Agency the state match necessary to cover increased revenues for services as a result of fee increases. The Department of Public Health will be responsible to the Alabama Medicaid Agency for any disallowance of Public Health Department costs as a result of federal or state audit.

72. HEALTH PLANNING AGENCY, STATE:

(a) Health Planning Development and Regulation Program	879,545
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SOURCE OF FUNDS:

(1) State General Fund	206,666		
(2) Certificate of Need Fees		500,000	
(3) Departmental Receipts		172,879	
Total State Health Planning Agency	206,666	672,879	879,545

73. HEARING AID DEAL- ERS, ALABAMA BOARD OF:

(a) Professional and Occupational Licensing and Regulation Program	48,052
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SOURCE OF FUNDS:

(1) State Board of Health-
Hearing Aid Fund

48,052

As provided in Section 34-14-
33, Code of Alabama 1975.Total Alabama Board of
Hearing Aid Dealers

48,052

48,052

74. HEATING AND AIR CON-
DITIONING CONTRAC-
TORS, BOARD OF:(a) Professional and Occupa-
tional Licensing and Regula-
tion Program

287,500

SOURCE OF FUNDS:

(1) Heating and Air Condi-
tioning Contractors Fund

287,500

As provided in Sections 34-31-
1 through 34-31-34, Code of
Alabama 1975.Total Board of Heating and Air
Conditioning Contractors

287,500

287,500

75. HERITAGE TRUST FUND,
ALABAMA:(a) Fiscal Management Pro-
gram

20,000

SOURCE OF FUNDS:

(1) Heritage Trust Income

20,000

Total Alabama Heritage Trust
Fund

20,000

20,000

76. HIGHWAY DEPART-
MENT:(a) Central Administration
Program

20,078,690

(b) Division and District
Supervision Program

27,909,974

(c) Operations and Support
Services Program

10,979,397

(d) Maintenance Program

184,787,515

(e) Non-Programmatic Programs	20,755,459
Proposed spending plan for the above (e) includes the following:	
Debt Service	13,573,661
Equipment - Other than Automotive	4,690,298
Road Machinery and Equipment Purchases.....	2,491,500
(f) Construction-Federal Aid Program.....	450,448,443
Proposed spending plan for the above (f) includes the following:	
Federal Aid Matching.....	91,581,833
Non-Participating Work on Federal Projects	1,000,000
Federal Aid	357,866,610
(g) Construction-State Program.....	25,246,000
(h) Operations-Land and Buildings Program	2,546,308
(i) Captive County Health Insurance Program	168,480
(j) Transfer to Department of Public Safety, in accordance with Act 91-797	3,500,000
(k) Transfer to Department of Public Safety	900,000
It is the intent of the Legislature that the above transfer to the Department of Public Safety shall be made only in the event that HB 662 of the 1993 Regular Session fails to become enacted into law.	
(l) Transfer to Amtrak	1,047,000

(m) Highway Safety Education Program	100,000
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SOURCE OF FUNDS:

(1) State General Fund-Transfer	180,000
(2) State General Fund-Amtrak	1,047,000
(3) State General Fund-Highway Safety Education Program.....	100,000
(4) Public Road and Bridge Fund.....	384,952,016
(5) Public Road and Bridge Fund-Transfer to Department of Public Safety.....	4,400,000
(6) Federal Aid.....	357,788,250

There is hereby appropriated, for payment of the principal of and the interest on all bonds heretofore or hereafter issued for public highways and bridge purposes, or either, by the State of Alabama, Alabama Highway Authority, Alabama Federal Aid Highway Finance Authority, or Alabama Industrial Access Road and Bridge Corporation, a total of \$13,573,661 or so much thereof as may be necessary for payment of said principal and interest at their respective maturities, of the revenues pledged for such payment. The Highway Director with the consent of the Governor and the Director of Finance shall have the authority to transfer any appropriation or any portion thereof between and among Subsections (a), (b), (c), (d), (e), (f), (g), (h), (i), of this Section whenever such transfer shall be necessary to assure maximum utilization of

Federal Matching Funds which shall become available. In the event that there shall not be sufficient funds available for payment of all appropriations hereinabove made, the following provisions shall be applicable. In the event of such insufficiency in respect of the said revenues accruing to the State Highway Department: (1) the appropriations made for Debt Service in Subsection (e) hereof shall be paid in full, (2) the appropriations from the revenues accruing to the State Highway Department that are herein made for the purposes referred to in Subsections (a), (b), (c), (d), (e), (f), (g), (h), (i), except for Debt Service, hereof shall be allocated among the purposes referred to in said Subsections in such order and with such priorities as the State Highway Director shall from time to time direct. The funds appropriated in Subsection (f) hereof, for the matching Federal Funds, shall ~~not revert at the end of the fiscal year~~ for which such appropriations are made, but shall remain available for the purpose for which such appropriation was made. In addition to all appropriations hereinabove made there is hereby appropriated to the State Highway Department all Federal Funds accruing thereto to be expended only for the purpose for which such funds are made available.

Total Highway Department.....	<u>1,327,000</u>	<u>747,140,266</u>	<u>748,467,266</u>
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77. HISTORIC BLAKELEY AUTHORITY:

(a) Historical Resources Management Program.....	350,000
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SOURCE OF FUNDS:

(1) State General Fund	350,000	
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Total Historic Blakeley Authority	350,000	350,000
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78. HISTORIC CHATTA- HOOCHIE COMMISSION:

(a) Historical Resources Management Program.....	149,500
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SOURCE OF FUNDS:

(1) State General Fund	149,500	
<hr/>		
Total Historic Chattahoochee Commission	149,500	149,500
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The funds hereby appropriated are to be expended only for grants, projects, and/or any other legal purposes in the State of Alabama.

79. HISTORICAL COMMISSION, ALABAMA:

(a) Historical Resources Management Program.....	3,543,848
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(b) Capital Outlay Program....	44,339
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SOURCE OF FUNDS:

(1) State General Fund-Transfer	1,552,168
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The above appropriation shall be distributed as follows:

Historical Commission, Alabama.....	833,500
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Historical Commission, Alabama-LaGrange.....	6,894
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Historical Commission, Alabama-Magnolia Grove.....	33,697
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Historical Commission, Alabama- Fort Morgan	160,505
Historical Commission, Alabama-Fort Morgan- Capital Outlay.....	44,339
Historical Commission, Alabama- Fort Toulouse	97,804
Historical Commission, Alabama-John T. Morgan House, Selma.....	10,162
Historical Commission, Alabama-Cahaba.....	133,016
The administrative fee charged by the Alabama Historical Commission to the Cahaba Account shall not exceed 3% of the above amount.	
Historical Commission, Alabama- Gaineswood	65,839
Historical Commission, Alabama- St. Stephens	9,680
Mainstreet	48,400
Helen Keller Birthplace	24,200
Pharmaceutical Museum	11,132
Marengo County Historical Society for restoration of the Marengo County Museum	15,000
Shelby County Historical Society.....	8,000
Fort Payne, Bridgeport and Stevenson Historical Depots/ Museums.....	50,000
(2) Soldiers Fund.....	194,077

As provided in Section 40-8-3,
Code of Alabama 1975.

(3) Alabama State Historical Preservation Fund-Depart- mental Receipts.....	982,219		
(4) Federal and Local Funds...	859,723		
Total Alabama Historical Commission	1,552,168	2,036,019	3,588,187

80. HUMAN RESOURCES, DEPARTMENT OF:

(a) Human Services Program...	462,496,097
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It is the intent of the Legisla-
ture that allotments be made
to the County Departments of
Human Resources in the
amount of \$165,500 to fund,
upon approval of the county
department director, supple-
mental client services not oth-
erwise provided for through
existing programs of the
Department of Human Re-
sources. Allotments to the
county departments based on
the counties' populations
according to the 1990 census
are as follows: county popula-
tions greater than 50,000,
\$3,500; county populations
less than 50,000, \$2,000.

SOURCE OF FUNDS:

(1) State General Fund- Transfer	40,990,703
(2) Federal and Local Funds...	316,196,647
(3) ABC Profits.	775,000
(4) Whiskey Tax	21,600,000
(5) Beer Tax	8,700,000
(6) Pension Residue.....	17,000,000
(7) Sales Tax.	1,322,000
(8) Franchise Tax	18,500,000

(9) Child Support Collections ...	7,111,747		
(10) Sales Tax for Food Stamps, Estimated.....	23,000,000		
In accordance with Section 40-23-35, Code of Alabama 1975.			
(11) Cigarette Tax	3,900,000		
(12) Contractor's Gross Receipts Tax	3,400,000		
Total Department of Human Resources.....	40,990,703	421,505,394	462,496,097
81. INDIAN AFFAIRS COMMISSION, ALABAMA:			
(a) Social Services Program....		200,000	
The above appropriation is to be expended in accordance with Sections 41-9-708 et seq., Code of Alabama 1975.			
(b) Capital Outlay-Ancient Indian Grounds in Franklin County		150,000	
SOURCE OF FUNDS:			
(1) State General Fund	350,000		
Total Alabama Indian Affairs Commission	350,000		350,000
82. INDUSTRIAL DEVELOPMENT AUTHORITY, STATE:			
(a) Industrial Development Program		100,000	
SOURCE OF FUNDS:			
(1) SIDA Application Fees Fund.....	100,000		
Total State Industrial Development Authority	100,000		100,000
83. INDUSTRIAL RELATIONS, DEPARTMENT OF:			
(a) Employment Security Program		47,330,074	

(b) Industrial Safety and Accident Prevention Program 5,598,182

Of the above appropriation, at least \$126,350 shall be expended for the enforcement of child labor laws.

(c) Administrative Services Program..... 12,544,562

(d) Workers' Compensation Program..... 3,669,589

(e) Capital Outlay Program 875,000

SOURCE OF FUNDS:

(1) State General Fund 870,757

(2) Federal and Local Funds... 69,146,650

Total Department of Industrial Relations 870,757 69,146,650 70,017,407

84. INSURANCE, DEPARTMENT OF:

(a) Regulatory Services Program..... 3,855,014

SOURCE OF FUNDS:

(1) State General Fund 2,144,931

(2) Fire Marshal's Fund 189,592

As provided in Sections 34-33-11 and 8-17-211, Code of Alabama 1975.

(3) Examination Revolving Fund..... 1,520,491

Total Department of Insurance.. 2,144,931 1,710,083 3,855,014

85. INSURANCE BOARD, STATE EMPLOYEES':

(a) Administrative Support Services Program 950,237

SOURCE OF FUNDS:

(1) State Employees' Insurance Board Expense Fund..... 950,237

Total State Employees' Insurance Board..... 950,237 950,237

**86. INTERIOR DESIGNERS,
ALABAMA STATE BOARD
OF REGISTRATION FOR:**

- | | |
|--|--------|
| (a) Professional and Occupational Licensing and Regulation Program | 11,100 |
|--|--------|

SOURCE OF FUNDS:

- | | |
|----------------------------------|--------|
| (1) Interior Designer Fund | 11,100 |
|----------------------------------|--------|

As provided in Section 34-15A-7, Code of Alabama 1975.

Total Alabama State Board of Registration for Interior Designers	11,100	11,100
--	--------	--------

**87. LABOR, DEPARTMENT
OF:**

- | | |
|---------------------------------------|---------|
| (a) Regulatory Services Program | 405,830 |
|---------------------------------------|---------|

SOURCE OF FUNDS:

- | | | | |
|-----------------------------------|---------|--------|---------|
| (1) State General Fund | 314,799 | | |
| (2) Federal and Local Funds | | 91,031 | |
| Total Department of Labor | 314,799 | 91,031 | 405,830 |

**88. LANDSCAPE ARCHITECTS,
BOARD OF EXAMINERS OF:**

- | | |
|--|--------|
| (a) Professional and Occupational Licensing and Regulation Program | 35,000 |
|--|--------|

SOURCE OF FUNDS:

- | | |
|--|--------|
| (1) Landscape Architect's Fund | 35,000 |
| As provided in Section 34-17-6, Code of Alabama 1975. | |
| Total Board of Examiners of Landscape Architects | 35,000 |

**89. PRESIDING OFFICER
OF THE SENATE, OFFICE
OF THE:**

- | | |
|--|---------|
| (a) Legislative Operations and Support Program | 571,192 |
|--|---------|

SOURCE OF FUNDS:

(1) State General Fund	571,192	
Total Office of the Presiding Officer of the Senate	571,192	571,192

90. LIQUEFIED PETRO-
LEUM GAS BOARD:

(a) Regulatory Services Pro- gram.....		464,000
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SOURCE OF FUNDS:

(1) Liquefied Petroleum Gas Board Fund.....	464,000	
Total Liquefied Petroleum Gas Board.....	464,000	464,000

91. MANUFACTURED HOUS-
ING COMMISSION, ALA-
BAMA:

(a) Regulatory Services Pro- gram.....		1,157,254
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SOURCE OF FUNDS:

(1) Alabama Manufactured Housing Commission Fund ...	1,117,254	
As provided in Section 24-6-4, Code of Alabama 1975.		
(2) Transfer from Manu- factured Home Title Fee Receipts Levied in Section 32- 8-6, Code of Alabama 1975	40,000	
Total Alabama Manufactured Housing Commission	1,157,254	1,157,254

92. MEDICAID AGENCY,
ALABAMA:

(a) Medical Assistance Through Medicaid Program		1,566,584,557
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The Medicaid Agency will reim-
burse the Department of
Public Health for actual costs
(in compliance with OMB
Circular A87 and Health Care
Financing Administration

guidelines) for services provided. The above appropriation shall include a reimbursement of the maximum amount available for rural hospitals that own and operate diploma-issuing schools of nursing that are accredited by the National league of Nursing and the Alabama Board of Nursing. Any rural hospital receiving such reimbursement shall reimburse 20% of said funds to any qualifying Hill-Burton hospital in the same county that provides support for the schools of nursing in the rural hospital.

SOURCE OF FUNDS:

(1) State General Fund	138,934,767		
(2) Transfer from Department of Human Resources		15,220,159	
(3) Transfer from Mental Health		44,566,124	
(4) Transfer from Commission on Aging		3,812,940	
(5) Transfer from Department of Public Health		5,664,538	
(6) Transfer from Department of Youth Services		59,560	
(7) Transfer from Department of Education		2,943,459	
(8) Transfer from Children's Rehabilitation Services		1,182,409	
(9) Indigent Care Trust Fund		160,495,016	
(10) Departmental Receipts		6,500,000	
(11) Federal and Local Funds		1,112,855,585	
(12) Alabama Health Care Trust Fund		74,150,000	
Total Alabama Medicaid Agency	138,934,767	1,427,649,790	1,566,584,557

In addition to the above appropriation, there is also appropriated any local funds or transfers from other state departments as may become available to facilitate the receipt of matching federal funds in order to maximize federal participation in existing programs under Medicaid.

93. MEN'S HALL OF FAME,
ALABAMA:

(a) Historical Resources Management Program.....	4,434
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SOURCE OF FUNDS:

(1) State General Fund	4,434	
Total Alabama Men's Hall of Fame	4,434	4,434

94. MENTAL HEALTH AND
MENTAL RETARDATION,
DEPARTMENT OF:

(a) Institutional Treatment and Care-Mental Illness Program.....	116,410,602
(b) Institutional Treatment and Care-Mental Retardation Program	76,659,594
(c) Administrative Services Program.....	13,325,672
(d) Community Services Program.....	116,113,963
(1) Mental Illness Services.....	55,295,510
(2) Substance Abuse Services.....	18,693,352

Of the above appropriations for Mental Illness Services and Substance Abuse Services, \$50,998,010 and \$17,943,352 respectively shall be allocated

by the DMH/MR to Regional Community Mental Health Boards established under Section 22-51-2, Code of Alabama 1975. First priority for such allocated funds shall be the development of a comprehensive array of services for seriously mentally ill, seriously emotionally disturbed, and addicted populations. Such services shall be provided by or sanctioned by said community boards according to resource allocation procedures as set forth in the Alabama Administrative Code (Section 580-1-1-.19). Such allocations to community boards shall recognize community needs and DMH/MR obligations with respect to the Wyatt Consent Decree, Federal Block Grant allocation rules, and operational funding of facilities constructed with bond issue proceeds. It is the intent of the Legislature that the Department of Mental Health and Mental Retardation allocate at least \$254,711 to the Pearson Recovery Center and at least \$127,531 to the South Central Alabama Mental Health Center First Step Recovery Unit at its present location.

- (3) Mental Retardation
Services.....42,125,101

SOURCE OF FUNDS:

- | | |
|---|-------------|
| (1) State General Fund-
Transfer..... | 67,657,441 |
| (2) Special Mental Health
Trust Fund | 108,500,000 |

For Operations and Maintenance of the State Mental

Health and Mental Retardation Department and the Mental Health and Mental Retardation Community Programs, including the purchase of drugs for medically indigent mental patients not hospitalized at time of receiving drugs at the Alabama state hospitals.

(3) Transfer from ABC Profits..	1,000,000
(4) Cigarette Tax	3,500,000
(5) Departmental Receipts.....	2,236,887
(6) Indigent Offender Alcohol/ Drug Treatment Fund	190,000
(7) Federal and Local Funds...	139,425,503

Total Department of Mental Health and Mental Retardation.....	67,657,441	254,852,390	322,509,831
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95. MILITARY DEPARTMENT:

(a) Military Operations Program.....	5,613,959
(b) Capital Outlay Program....	250,000

SOURCE OF FUNDS:

(1) State General Fund-Operations.....	1,677,189
(2) State General Fund-Quarterly Allowances Headquarters	1,550,000
(3) State General Fund-Active Military Service	29,000
(4) State General Fund-Transfer to Armory Commission.....	2,350,000
(5) State General Fund-Dropping Allowance.....	3,880
(6) State General Fund-State Defense Force	3,890

(7) State General Fund-Capital Outlay.....	250,000	
Total Military Department.....	5,863,959	5,863,959

96. MILITARY DEPARTMENT – ARMORY COMMISSION OF ALABAMA:

(a) Military Operations Program.....		7,687,714
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SOURCE OF FUNDS:

(1) Transfer from Military Department	2,350,000	
(2) Federal and Local Funds...	5,224,338	
(3) Military Department Billeting Revolving Fund, Estimated	70,876	
(4) Departmental Receipts.....	42,500	

The funds hereinabove appropriated to the Armory Commission shall be payable from the funds in the State Treasury to the credit of the Armory Commission and the appropriation hereinabove made includes the appropriation made for the care, maintenance and construction of facilities; provided, however, that the last federal government service contract reimbursement shall not revert to the State General Fund and any unobligated balance remaining in the Armory Commission Fund at the end of the fiscal year in excess of \$50,000 shall be transferred to the State General Fund.

Total Armory Commission of Alabama.....	7,687,714	7,687,714
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97. MOTOR SPORTS HALL OF FAME:

(a) Historical Resources Management Program.....		166,378
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SOURCE OF FUNDS:

(1) State General Fund	166,378	
Total Motor Sports Hall of Fame	166,378	166,378

98. MUSIC HALL OF FAME, ALABAMA:

(a) Fine Arts Program		237,160
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SOURCE OF FUNDS:

(1) State General Fund	237,160	
Total Alabama Music Hall of Fame	237,160	237,160

99. NURSING, ALABAMA BOARD OF:

(a) Professional and Occupational Licensing and Regulation Program		1,965,251
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SOURCE OF FUNDS:

(1) Alabama Board of Nursing Trust Fund	1,965,251	
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As provided in Sections 34-21-1 through 34-21-43, Code of Alabama 1975.

Total Alabama Board of Nursing	1,965,251	1,965,251
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100. NURSING HOME ADMINISTRATORS, BOARD OF EXAMINERS OF:

(a) Professional and Occupational Licensing and Regulation Program		78,000
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SOURCE OF FUNDS:

(1) Board of Examiners of Nursing Home Administrators Fund	78,000	
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As provided in Section 34-20-7, Code of Alabama 1975.

Total Board of Examiners of Nursing Home Administrators	78,000	78,000
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**101. OCCUPATIONAL THER-
APY, ALABAMA STATE
BOARD OF:**

(a) Professional and Occu- pational Licensing and Regulation Program.....	40,000
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SOURCE OF FUNDS:

(1) Board of Occupational Therapy Fund.....	40,000
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As provided in Section 34-39-
6, Code of Alabama 1975.

Total Alabama State Board of Occupational Therapy.....	40,000	40,000
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102. OIL AND GAS BOARD:

(a) Management and Regula- tion of Oil and Gas Explora- tion and Development Pro- gram.....	2,279,572
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(b) Capital Outlay Program....	490,784
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SOURCE OF FUNDS:

(1) State General Fund	2,244,572
(2) Oil and Gas Board Special Fund.....	505,784
(3) Surety Bond Deposits, Estimated	20,000

In accordance with Section 9-
17-6, Code of Alabama 1975.

Total Oil and Gas Board	2,244,572	525,784	2,770,356
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**103. PARDONS AND PA-
ROLES, BOARD OF:**

(a) Administration of Pardons and Paroles Program	14,817,913
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SOURCE OF FUNDS:

(1) State General Fund	11,422,117
(2) Probationers Upkeep Fund	3,395,796

In accordance with Section 15-
22-2, Code of Alabama 1975.

Total Board of Pardons and Paroles	11,422,117	3,395,796	14,817,913
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104. PEACE OFFICERS' ANNUITY AND BENEFIT FUND, ALABAMA:

(a) Retirement Systems Program.....	410,224
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SOURCE OF FUNDS:

(1) Peace Officers' Annuity and Benefit Fund	410,224
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As provided in Section 36-21-66, Code of Alabama 1975.

Total Alabama Peace Officers' Annuity and Benefit Fund.....	410,224	410,224
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105. PERSONNEL DEPARTMENT, STATE:

(a) Administrative Support Services Program	3,865,139
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SOURCE OF FUNDS:

Transfers to the State Personnel Department shall be as follows:

(1) Board of Public Accountancy	421
(2) Department of Aeronautics	579
(3) Commission on Aging	2,212
(4) Department of Agriculture and Industries	45,347
(5) Agricultural and Conservation Development Commission.....	105
(6) Agricultural Center Board..	948
(7) Alcoholic Beverage Control Board	91,115
(8) Board of Registration for Architects	158
(9) Archives and History	6,162
(10) State Council on the Arts	1,738
(11) Attorney General's Office	15,695
(12) Board of Auctioneers	53
(13) State Auditor.....	1,791

(14) State Banking Department	5,477
(15) Building Commission	1,843
(16) Alabama Building Ren- ovation Finance Authority.....	12,114
(17) Child Abuse and Neglect Prevention Board	369
(18) Chiropractic Examiners ..	105
(19) Choctawhatchee-Pea Rivers Watershed.....	53
(20) Department of Con- servation and Natural Re- sources	202,138
(21) State Licensing Board for General Contractors	579
(22) Department of Corrections	333,333
(23) Board of Cosmetology	1,475
(24) Credit Union Adminis- tration	790
(25) Alabama Crime Victims Compensation Commission ...	1,422
(26) Criminal Justice In- formation Center.....	6,320
(27) Alabama Development Office.....	4,687
(28) Board of Dietetics and Nutrition	53
(29) State Docks	33,339
(30) Department of Economic and Community Affairs	35,077
(31) Department of Education	153,578
(32) Electrical Contractors Board	53
(33) Emergency Management Agency	5,425
(34) Local Emergency Man- agement	3,032
(35) Employees' Insurance Board	1,053

(36) Board of Registration for Professional Engineers and Land Surveyors	527
(37) Department of Environmental Management.....	41,765
(38) Ethics Commission	843
(39) Examiners of Public Accounts	24,859
(40) Farmers' Market Authority	263
(41) Finance Department.....	56,723
(42) Foreign Trade Relations Commission	158
(43) Department of Forensic Sciences	14,589
(44) Forestry Commission.....	54,669
(45) Funeral Services Board ...	158
(46) Governor's Office.....	3,792
(47) Department of Public Health	485,700
(48) State Health Planning Agency	1,527
(49) Board of Heating and Air Conditioning Contractors	421
(50) Highway Department.....	448,674
(51) Alabama Historical Commission.....	7,479
(52) Department of Human Resources.....	476,799
(53) Alabama Indian Affairs Commission	369
(54) Department of Industrial Relations.....	193,711
(55) Insurance Department	6,899
(56) Judicial Inquiry Commission.....	158
(57) Department of Labor	632

(58) Legislative Reference Service	421
(59) Liquefied Petroleum Gas Board	895
(60) Manufactured Housing Commission	1,685
(61) Alabama Medicaid Agency	55,301
(62) Department of Mental Health and Mental Retardation.....	533,258
(63) Military Department	25,333
(64) Board of Nursing	2,581
(65) Board of Examiners of Nursing Home Administrators	53
(66) Board of Occupational Therapy	53
(67) Oil and Gas Board	11,956
(68) Pardons and Paroles.....	38,658
(69) Peace Officers' Annuity and Benefit Fund	369
(70) Peace Officers' Standards and Training Commission	474
(71) Physical Fitness Commission.....	632
(72) Board of Physical Therapy	158
(73) Plumbers and Gas Fitters Examiners Board.....	1,422
(74) Public Library Service	4,898
(75) Department of Public Safety.....	134,302
(76) Public Service Commission.....	15,484
(77) Alabama Educational Television Commission	9,059

(78) Real Estate Appraisers Board	369	
(79) Real Estate Commission	1,896	
(80) Retirement Systems	16,696	
(81) Department of Revenue...	143,519	
(82) Secretary of State	6,162	
(83) Securities Commission	2,107	
(84) Board of Social Work Examiners	158	
(85) Soil and Water Conservation Committee.....	369	
(86) Surface Mining Commission.....	3,739	
(87) Bureau of Tourism and Travel.....	6,320	
(88) State Treasurer.....	5,109	
(89) Department of Veterans' Affairs	6,899	
(90) Board of Veterinary Medical Examiners	158	
(91) Voter Registration	211	
(92) Department of Youth Services.....	45,081	
Total State Personnel Department.....	3,865,139	3,865,139
106. PHYSICAL THERAPY, BOARD OF:		
(a) Professional and Occupational Licensing and Regulation Program		105,730
SOURCE OF FUNDS:		
(1) Physical Therapist Fund...	105,730	
As provided in Section 34-24-195, Code of Alabama 1975.		
Total Board of Physical Therapy	105,730	105,730

**107. PLUMBERS AND GAS
FITTERS EXAMINING
BOARD, ALABAMA:**

(a) Professional and Occupational Licensing and Regulation Program	1,000,000
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SOURCE OF FUNDS:

(1) Board of Plumbers and Gas Fitters Examiners Fund	1,000,000
--	-----------

As provided in Section 34-37-5, Code of Alabama 1975.

Total Alabama Plumbers and Gas Fitters Examining Board	1,000,000	1,000,000
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108. POLYGRAPH EXAMINERS, BOARD OF:

(a) Professional and Occupational Licensing and Regulation Program	15,000
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SOURCE OF FUNDS:

(1) Board of Polygraph Examiners Fund	15,000
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As provided in Section 34-25-5, Code of Alabama 1975.

Total Board of Polygraph Examiners	15,000	15,000
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109. PROSECUTION SERVICES, OFFICE OF:

(a) Prosecution, Training, Education and Management Program	1,278,400
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SOURCE OF FUNDS:

(1) State General Fund	232,689
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(2) Office of Prosecution Services Fund	1,045,711
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Total Office of Prosecution Services	232,689	1,045,711	1,278,400
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110. PSYCHOLOGY, ALABAMA BOARD OF EXAMINERS IN:

(a) Professional and Occupational Licensing and Regulation Program	89,735
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SOURCE OF FUNDS:

(1) Board of Examiners in Psychology Fund	89,735
---	--------

As provided in Section 34-26-43, Code of Alabama 1975.

Total Alabama Board of Examiners in Psychology.....	89,735	89,735
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111. PUBLIC SAFETY, DEPARTMENT OF:

(a) Police Services Program	27,091,180
(b) Public Safety Support Services Program	10,965,074
(c) Administrative Services Program.....	19,236,538

SOURCE OF FUNDS:

(1) State General Fund	45,152,916
(2) Transfer from ABC Profits	2,000,000
(3) Transfer from Public Road and Bridge Fund-Act 91-797...	3,500,000

Notwithstanding the provisions of Act 91-797, the above transfer from the Public Road and Bridge Fund may be expended for the enforcement of state traffic and motor vehicle laws.

(4) Transfer from Public Road and Bridge Fund	900,000
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It is the intent of the Legislature that the above transfer shall not be made from the Public Road and Bridge

Fund in the event House Bill
662 of the 1993 Regular
Session becomes law.

(5) Federal and Local Funds... 4,714,866

(6) Automated Fingerprint
Identification System Fund... 1,025,010

In accordance with Act 92-676.

Total Department of Public Safety.....	45,152,916	12,139,876	57,292,792
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112. PUBLIC SERVICE COM- MISSION:

(a) Regulatory Services Pro-
gram..... 5,467,060

(b) Administrative Services
Program..... 5,187,596

The above appropriation in-
cludes a transfer to the State
General Fund of \$1,500,000 in
four equal amounts at the end
of each quarter of the fiscal
year.

SOURCE OF FUNDS:

(1) Public Service Commis-
sion Fund..... 9,904,576

The above appropriation to
the Alabama Public Service
Commission shall be payable
**only from inspection and
supervision fees paid by util-
ities, radio companies and
transportation companies
and such parts or percent-
ages of fees and taxes paid
by motor carrier or motor
transportation companies as
are now or may be set aside
by law to be used by the
Commission. Any surplus
remaining in the Alabama
Public Service Commission
Fund at the end of the fiscal
year in excess of \$1,500,000**

shall be transferred to the
State General Fund.

(2) Gas Pipeline Safety Fund..	579,080	
(3) Departmental Receipts.....	16,000	
(4) Federal and Local Funds...	155,000	
Total Public Service Com- mission.....	10,654,656	10,654,656

113. REAL ESTATE APPRAIS- ERS BOARD, ALABAMA:

(a) Professional and Occupa- tional Licensing and Regula- tion Program	392,527	
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SOURCE OF FUNDS:

(1) Real Estate Appraisers Board Fund.....	392,527	
In accordance with Section 34- 27A-1 through 34-27A-29. Code of Alabama 1975.		
Total Alabama Real Estate Appraisers Board	392,527	392,527

114. REAL ESTATE COM- MISSION, ALABAMA:

(a) Professional and Occupa- tional Licensing and Regula- tion Program	2,478,028	
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SOURCE OF FUNDS:

(1) Alabama Real Estate Com- mission Fund	2,478,028	
As provided in Section 34-27-4, Code of Alabama 1975 and the total expenditures shall in no manner exceed the amounts hereby appropriated.		
Total Alabama Real Estate Commission	2,478,028	2,478,028

115. REVENUE, DEPART- MENT OF:

(a) State Revenue Adminis- tration Program	72,814,853	
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The above appropriation shall include a transfer to the Examiners of Public Accounts of \$200,000.

SOURCE OF FUNDS:

(1) State General Fund-Transfer	242,000
As provided in Section 40-7-70, Code of Alabama 1975, to maintain a program for the equalization of ad valorem tax assessments.	
(2) State General Fund-Board of Equalization	96,827
(3) Transfer from the gross proceeds of Cigarette Tax Collections	1,369,626
As provided in Section 40-25-27, Code of Alabama 1975.	
(4) Transfer from the gross proceeds of Financial Institution Excise Tax Collections	354,991
(5) Transfer from the proceeds of the Forest Severance Tax Collections	130,693
(6) Transfer from the gross proceeds of Gasoline Tax Collections	6,214,900
(7) Transfer from the Income Tax Collections	21,092,260
(8) Transfer from the gross proceeds of Motor Fuel Tax Collections	1,295,328
(9) Transfer from the gross proceeds of Motor Vehicle License Collections	2,808,541
(10) Transfer from the Pension Fund as part of the cost of collections of the 1-Mill Ad Valorem Tax	859,415

(11) Transfer from the Public School Fund as part of the cost of collections of the 3-Mill Ad Valorem Tax.....	2,117,236
(12) Transfer from the gross proceeds of Sales Tax Collections	18,607,404
(13) Transfer from the gross proceeds of the Tobacco Tax Collections	56,036
(14) Transfer from the gross proceeds of Use Tax Collections.....	2,036,315
(15) Transfer from the gross proceeds of the Utility Tax Collections	4,521,164
(16) Transfer from the gross proceeds of Motor Vehicle License Collections for the purchase only of Motor Vehicle License Tags.....	2,365,083
(17) Inspection fees for restored vehicles.....	1,250,000
As provided in Section 32-8-87, Code of Alabama 1975.	
(18) Transfer from Abandoned Property Trust Fund...	100,000
As provided in Section 35-12-39. Code of Alabama 1975.	
(19) Transfer from the gross proceeds of the Pharmaceutical Services Privilege Tax Collections	33,464
(20) Transfer from the gross proceeds of Nursing Facility Privilege Tax Collections	233,134
(21) Local Funds.....	6,900,000
(22) Ad Valorem Equalization Fund.....	130,436

The amounts hereinabove appropriated for the cost of

maintenance and operations of the Department of Revenue are in lieu of any other statutory provisions for the payment of the cost of operating said Department or collections of the taxes as authorized by law. Provided, however, in addition to the amount hereinabove appropriated, there is hereby appropriated to the Department of Revenue all sums allowed the Department of Revenue by local Acts of the Legislature as a charge for the collection of taxes or licenses.

Total Department of Revenue ...	338,827	72,476,026	72,814,853
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Of the above appropriation to the Department of Revenue, \$5,000,000 is conditioned upon the employment of sixteen additional persons to audit franchise and income tax returns within the Franchise and Income Tax Divisions of the Department. Should the Department fail to employ sixteen additional persons assigned to audit franchise and income tax returns by September 30, 1994, the \$5,000,000 in conditional appropriations provided herein shall revert to the State General Fund.

116. SECRETARY OF STATE:

(a) Administrative Support Services Program	1,281,459
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SOURCE OF FUNDS:

(1) State General Fund	843,959
(2) UCC and Farm Indexing Fund.....	142,500

(3) Corporations Fund.....		295,000	
Total Secretary of State	843,959	437,500	1,281,459

117. SECURITIES COMMISSION:

(a) Regulatory Services Program.....			1,757,897
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SOURCE OF FUNDS:

(1) State General Fund	400,000		
(2) Sale of Checks License Fund.....		10,000	
(3) Securities Commission Fund.....		1,347,897	
Total Securities Commission...	400,000	1,357,897	1,757,897

118. SENIOR CITIZENS HALL OF FAME, ALABAMA:

(a) Historical Resources Management Program.....			20,113
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To be expended in accordance with Section 41-9-740 et seq., Code of Alabama 1975.

SOURCE OF FUNDS:

(1) State General Fund	20,113		
Total Alabama Senior Citizens Hall of Fame	20,113		20,113

119. SOCIAL WORK EXAMINERS, ALABAMA STATE BOARD OF:

(a) Professional and Occupational Licensing and Regulation Program			102,106
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SOURCE OF FUNDS:

(1) Alabama State Board of Social Work Examiners Fund.....		102,106	
As provided in Section 34-30-6, Code of Alabama 1975.			
Total Alabama State Board of Social Work Examiners		102,106	102,106

**120. SOIL AND WATER
CONSERVATION COMMIT-
TEE, STATE:**

(a) Water Resource Develop- ment Program	1,305,805
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Of the above appropriation to
the Water Resource Develop-
ment Program, \$50,000 shall
be expended for watershed
management and \$50,000
shall be allocated to the Sand
Mountain-Lake Guntersville
Watershed Conservancy Dis-
trict.

(b) Professional and Occupa- tional Licensing and Regula- tion Program	5,000
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SOURCE OF FUNDS:

(1) State General Fund	1,265,805
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(2) Soil Classifiers Fund	5,000
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As provided in Section 34-32-
19, Code of Alabama 1975.

(3) Transfer from Agricul- tural and Conservation Development Commission	40,000
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Total State Soil and Water Conservation Committee	1,265,805	45,000	1,310,805
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**121. SOUTHERN GROWTH
POLICIES BOARD:**

(a) Special Services Program ..	25,666
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SOURCE OF FUNDS:

(1) State General Fund	25,666
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Total Southern Growth Poli- cies Board	25,666	25,666
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**122. SPEECH PATHOLOGY
AND AUDIOLOGY, ALA-
BAMA BOARD OF EXAM-
INERS FOR:**

(a) Professional and Occupa- tional Licensing and Regula- tion Program	69,700
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SOURCE OF FUNDS:

- (1) Alabama Board of Examiners for Speech Pathology and Audiology Fund.....

69,700

As provided in Section 34-28A-44, Code of Alabama 1975.

Total Alabama Board of Examiners for Speech Pathology and Audiology

69,700

69,700

123. SPORTS HALL OF FAME, ALABAMA:

- (a) Historical Resources Management Program.....

176,983

SOURCE OF FUNDS:

- (1) State General Fund

176,983

Total Alabama Sports Hall of Fame

176,983

176,983

124. SURFACE MINING COMMISSION, ALABAMA:

- (a) Industrial Safety and Accident Prevention Program.....

5,041,934

SOURCE OF FUNDS:

- (1) State General Fund-Transfer

332,539

- (2) Surface Mining Commission-Fees.....

867,198

- (3) Federal and Local Funds....

1,242,197

- (4) Bond Forfeiture/Reclamation Projects, Estimated.....

2,600,000

As provided in Section 9-16-103, Code of Alabama 1975.

Total Alabama Surface Mining Commission.....

332,539

4,709,395

5,041,934

125. TANNEHILL FURNACE AND FOUNDRY COMMISSION:

- (a) Historical Resources Management Program.....

488,371

SOURCE OF FUNDS:

(1) State General Fund	488,371		
Total Tannehill Furnace and Foundry Commission	488,371		488,371

126. TENNESSEE-TOMBIG-BEE WATERWAY DEVELOPMENT AUTHORITY:

(a) Water Resource Development Program			89,563
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SOURCE OF FUNDS:

(1) State General Fund	89,563		
Total Tennessee-Tombigbee Waterway Development Authority	89,563		89,563

127. TENNESSEE VALLEY EXHIBIT COMMISSION OF ALABAMA:

(a) Promotional Development Program			257,270
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To be expended in accordance with Sections 41-9-780 et seq., Code of Alabama 1975.

SOURCE OF FUNDS:

(1) State General Fund	145,450		
(2) Admissions and Concessions		111,820	
Total Tennessee Valley Exhibit Commission of Alabama	145,450	111,820	257,270

The above appropriation to the Tennessee Valley Exhibit Commission includes \$60,000 for payment of debt service on the Tennessee Valley Exhibit Commission of Alabama Project Revenue Bonds.

128. TOURISM AND TRAVEL, BUREAU OF:

(a) Tourism and Travel Promotion Program			5,276,526
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Of the above appropriation, \$48,400 shall be for the Cahaba Trace Commission; \$24,200 shall be transferred to the Tallapoosa Highland Lakes Association; \$24,200 shall be transferred to the Mountain Lakes Tourist Association; \$14,520 shall be transferred to the Tennessee Tombigbee Welcome Center; \$24,200 shall be for the Childersburg Heritage Foundation; \$15,000 shall be for the Gulf Shores Welcome Center; and \$10,000 to the Greenville Chamber of Commerce.

SOURCE OF FUNDS:

(1) State General Fund	1.189,086	
(2) Lodgings Tax (\$0.01)		4,087,440

Receipts collected under the provisions of Section 40-26-1, et seq., Code of Alabama 1975.

Total Bureau of Tourism and Travel.....	<u>1,189,086</u>	<u>4,087,440</u>	<u>5,276,526</u>
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129. TREASURER, STATE:

(a) Fiscal Management Program.....		4,132,010
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SOURCE OF FUNDS:

(1) State General Fund	1,979,283		
(2) Prepaid Affordable College Tuition Fund		2,152,727	
Total State Treasurer	1,979,283	2,152,727	4,132,010

130. UNIFORM STATE LAWS, ALABAMA COMMISSION ON:

(a) Special Services Program, Estimated		5,764
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SOURCE OF FUNDS:

(1) State General Fund 5,764

As provided in Section 41-9-374, Code of Alabama 1975.

Total Alabama Commission on
Uniform State Laws.....

5,764

5,764

**131. VETERANS' AFFAIRS,
DEPARTMENT OF:**

(a) Administration of Veterans' Affairs Program.....

5,513,424

(b) Capital Outlay Program....

1,177,284

SOURCE OF FUNDS:

(1) State General Fund 3,311,009

(2) Veterans Home Trust
Fund-Transfer.....

3,379,699

Total Department of Veterans'
Affairs.....

3,311,009

3,379,699

6,690,708

132. VETERINARY MEDICAL EXAMINERS, ALABAMA STATE BOARD OF:

(a) Professional and Occupational Licensing and Regulation Program

145,000

SOURCE OF FUNDS:

(1) State Board of Veterinary Medical Examiners Fund

145,000

As provided in Section 34-29-70, Code of Alabama 1975.

Total Alabama State Board of
Veterinary Medical Examiners

145,000

145,000

133. VOTER REGISTRATION IDENTIFICATION PROGRAM:

(a) Special Services Program..

380,044

SOURCE OF FUNDS:

(1) State General Fund

380,044

Total Voter Registration Identification Program	380,044	380,044
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State agencies shall not charge fees to the Office of Voter Registration for services rendered which are required by Section 17-4-210, Code of Alabama 1975.

134. WOMEN'S COMMISSION, ALABAMA:

(a) Employment and Social Opportunities Program.....		11,084
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SOURCE OF FUNDS:

(1) State General Fund	11,084	
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Total Alabama Women's Commission	11,084	11,084
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135. WOMEN'S HALL OF FAME, ALABAMA:

(a) Historical Resources Management Program.....		4,828
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SOURCE OF FUNDS:

(1) State General Fund	4,828	
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Total Alabama Women's Hall of Fame	4,828	4,828
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136. YOUTH SERVICES, DEPARTMENT OF:

(a) Youth Services Program....		6,755,787
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The above appropriation shall be expended in accordance with the provisions of Sections 44-1-1 through 44-1-56, Code of Alabama 1975.

SOURCE OF FUNDS:

(1) State General Fund-Community Subsidy.....	3,472,159	
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(2) State General Fund-Juvenile Probation Officers Subsidy	3,283,628	
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Total Department of Youth Services.....	6,755,787	6,755,787
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The above appropriation for Community Subsidy shall include \$111,210 for those nonsecure programs funded in FY 1992-93. Any funds appropriated for Probation Officers Subsidy that is not required for that purpose shall be expended for Community Subsidy Programs.

2D. OTHER FUNCTIONS OF GOVERNMENT FUNDED FROM THE STATE GENERAL FUND:

1. ARREST OF ABSCONDING FELONS:

(a) Criminal Investigation Program, Estimated.....	62,920
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SOURCE OF FUNDS:

(1) State General Fund	62,920
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As provided in Section 15-9-1 and 15-9-3, Code of Alabama 1975.

Total Arrest of Absconding Felons	62,920	62,920
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2. AUTOMATIC APPEAL EXPENSE:

(a) Legal Advice and Legal Services Program, Estimated..	88
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SOURCE OF FUNDS:

(1) State General Fund	88
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As provided in Section 12-22-150 and 12-22-241, Code of Alabama 1975.

Total Automatic Appeal Expense	88	88
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3. CONSUMER UTILITY RATE HEARING:

(a) Executive Direction Program.....	200,000
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SOURCE OF FUNDS:

(1) State General Fund	200,000	
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As provided in Section 37-1-18, Code of Alabama 1975.

Total Consumer Utility Rate Hearing	200,000	200,000
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4. COURT ASSESSED COSTS NOT PROVIDED FOR:

(a) Special Services Program, Estimated		1,700,000
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As provided in Sections 22-52-14, 30-4-96, 26-17-17, 22-11A-1 through 22-11A-41 and 12-21-131, Code of Alabama 1975.

(b) Legal Advice and Legal Services Program		300,000
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It is the intent of the Legislature that the appropriation in this subsection be expended for Court Costs to include costs of depositions, witness fees and expenses, filing and docket fees, court reporters, court judgments, attorneys fees, out-of-court settlements and other expenses ordered by the court or normally identified as costs of court, when any of the above is approved by the Attorney General.

(c) Automatic Appeal Cases Expense Program		40,307
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The above appropriation shall be used to reimburse reasonable expenses incurred by attorneys representing defendants under sentence of death in state collateral proceedings, such as those under Rule 32 of the Rules of Criminal Procedure. Provided, in no case may any amount be paid unless the

court determines by written order in advance that the cost is both necessary and reasonable; in no single case may the total amount paid for all costs exceed \$5,000; and in no event may any amount be paid out of this appropriation as fees to any attorney for services, or to compensate any attorney for time either as an attorney in the proceeding or as a witness.

SOURCE OF FUNDS:

(1) State General Fund, Estimated	1,700,000	
(2) State General Fund	300,000	
(3) State General Fund-Automatic Appeal Cases	40,307	
Total Court Assessed Costs Not Provided For	2,040,307	2,040,307

5. COURT COSTS-ACT NO. 558, 1957:

(a) Court Operations Program, Estimated	400
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SOURCE OF FUNDS:

(1) State General Fund	400	
Pursuant to Act No. 558, 1957, Page 777.		
Total Court Costs-Act No. 558, 1957	400	400

6. DISTRIBUTION OF PUBLIC DOCUMENTS:

(a) Administrative Support Services Program, Estimated ..	70,942
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SOURCE OF FUNDS:

(1) State General Fund	70,942
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As provided in Sections 36-14-1, 36-14-11 and 41-21-8, Code of Alabama 1975.

Total Distribution of Public Documents.....	70,942	70,942
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7. STATE DOCKS TRANSFER:		3,500,000
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SOURCE OF FUNDS:

(1) State General Fund	3,500,000	
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The above appropriation to the State Docks shall be conditional upon the availability of funds and shall remain in the State General Fund until a demonstrated need is determined and recommended by the State Finance Director and approved by the Governor.

Total State Docks Transfer.....	3,500,000	3,500,000
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8. ELECTION EXPENSES:

(a) Special Services Program, Estimated		2,404,000
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Upon approval of the Governor, the above appropriation may be used to pay expenses related to the evaluation of voting facilities for compliance with the Americans With Disabilities Act.

(b) Training of Election Officials		78,166
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For payment of expenses pursuant to the court order entered by the U.S. District Court, Middle District of Alabama in Civil Action No. 84-T-595-N.

SOURCE OF FUNDS:

(1) State General Fund	2,482,166	
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As provided in Section 17-21-6, Code of Alabama 1975.

Total Election Expenses	2,482,166	2,482,166
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9. EMERGENCY FUND, DEPARTMENTAL:

(a) Special Services Program.. 3,898,360

SOURCE OF FUNDS:

(1) State General Fund 3,898,360

This is the appropriation contemplated in Section 41-4-94, Code of Alabama 1975, and shall be the only amount appropriated and the total amount expended under the provisions of said section.

Total Departmental Emergency Fund	3,898,360	3,898,360
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In addition to the above appropriation to the Departmental Emergency Fund, there is hereby appropriated \$2,000,000 from the State General Fund to be conditioned upon the availability of funds, the recommendation of the State Finance Director and the approval of the Governor.

10. FAIR TRIAL TAX TRANSFER:

(a) Court Operations Program, Estimated 3,570,909

SOURCE OF FUNDS:

(1) State General Fund-Transfer 3,570,909

Total Fair Trial Tax Transfer..	3,570,909	3,570,909
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11. FEEDING OF PRISONERS:

(a) Institutional Services-Corrections Program, Estimated 4,000,000

SOURCE OF FUNDS:

(1) State General Fund 4,000,000

For expenses of feeding prisoners in county jails in accordance with Section 14-6-42, Code of Alabama 1975.

Total Feeding of Prisoners.....	4,000,000	4,000,000
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In addition to the above appropriation, there is hereby appropriated \$2,800,000 from the State General Fund to be conditioned upon the availability of funds, the recommendation of the Finance Director and the approval of the Governor.

12. FINANCE, DEPARTMENT OF – CAPITOL MOVING:

(a) Special Services Program..	50,000
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SOURCE OF FUNDS:

(1) State General Fund	50,000
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Total Department of Finance-Capitol Moving	50,000	50,000
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13. FINANCE, DEPARTMENT OF – EMPLOYEES' SUGGESTION AWARDS PROGRAM:

(a) Fiscal Management Program.....	8,868
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SOURCE OF FUNDS:

(1) State General Fund	8,868
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In accordance with Section 36-1-7, Code of Alabama 1975.

Total Department of Finance-Employees' Suggestion Awards Program.....	8,868	8,868
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14. FINANCE-FEMA, DEPARTMENT OF:

(a) Readiness and Recovery Program, Estimated.....	500,000
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Payments of the State's Share of administrative costs and matching grants furnished by the Federal Emergency Management Agency.

SOURCE OF FUNDS:

(1) State General Fund	500,000	
Total Department of Finance-FEMA	500,000	500,000

The above appropriation to the Department of Finance-FEMA from the State General Fund is conditioned upon the declaration of a natural disaster area by the President of the United States and conditioned further upon the requirement by the Federal Management Agency of the State of Alabama to pay a state match for FEMA grants.

15. FOREST FIRE FUND, EMERGENCY:

(a) Forest Resources Protection and Development Program.....	180,000
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SOURCE OF FUNDS:

(1) State General Fund-Transfer	180,000
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The appropriation to the Emergency Forest Fire Fund shall be conditional as provided by Section 9-3-10.1. Code of Alabama 1975 and shall remain in the State General Fund until a demonstrated need is determined and recommended by the Director of Finance and approved by the Governor.

Total Emergency Forest Fire Fund.....	180,000	180,000
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16. GOVERNOR'S CONFERENCE, NATIONAL:

(a) Executive Direction Program, Estimated		173,602
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SOURCE OF FUNDS:

(1) State General Fund	173,602	
Total National Governor's Conference	173,602	173,602

17. GOVERNOR'S PROCLAMATION EXPENSES:

(a) Executive Direction Program, Estimated		175,000
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SOURCE OF FUNDS:

(1) State General Fund	175,000	
As provided in Section 17-14-21, Code of Alabama 1975.		
Total Governor's Proclamation Expenses	175,000	175,000

18. LAW ENFORCEMENT FUND:

(a) Criminal Investigation Program, Estimated		15,000
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SOURCE OF FUNDS:

(1) State General Fund	15,000	
As provided in Sections 28-4-311 and 28-4-312, Code of Alabama 1975.		
Total Law Enforcement Fund	15,000	15,000

19. LAW ENFORCEMENT LEGAL DEFENSE:

(a) Legal Advice and Legal Services Program, Estimated ..		2,500
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SOURCE OF FUNDS:

(1) State General Fund	2,500	
To carry out provisions of Section 36-21-1, Code of Alabama 1975.		
Total Law Enforcement Legal Defense	2,500	2,500

20. MILITARY – EMERGENCY ACTIVE DUTY PAY:

(a) Military Operations Program, Estimated	175,000
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SOURCE OF FUNDS:

(1) State General Fund	175,000
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As provided in Section 31-2-133, Code of Alabama 1975.

Total Military - Emergency Active Duty Pay	175,000	175,000
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21. PRINTING OF CODE SUPPLEMENTS – LEGISLATIVE REFERENCE SERVICE:

(a) Legislative Operations and Support Program, Estimated	364,880
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SOURCE OF FUNDS:

(1) State General Fund	364,880
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As provided in Section 29-7-6, Code of Alabama 1975.

Total Printing of Code Supplements – Legislative Reference Service	364,880	364,880
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22. PRINTING CODES AND SUPPLEMENTS – SECRETARY OF STATE:

(a) Administrative Support Services Program, Estimated ..	146,317
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SOURCE OF FUNDS:

(1) State General Fund	146,317
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As provided in Sections 41-21-1 through 41-21-8 and 41-4-154, Code of Alabama 1975.

Total Printing Codes and Supplements – Secretary of State.....	146,317	146,317
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23. PRINTING OF LEGISLATIVE ACTS AND JOURNALS:

(a) Administrative Support Services Program, Estimated... 443,385

SOURCE OF FUNDS:

(1) State General Fund 443,385

As provided in Sections 41-4-130 through 41-4-161, Code of Alabama 1975.

Total Printing of Legislative Acts and Journals	443,385	443,385
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24. REGISTRATION OF VOTERS:

(a) Special Services Program, Estimated 1,793,220

SOURCE OF FUNDS:

(1) State General Fund 1,793,220

In accordance with Sections 17-4-126 and 17-4-153, Code of Alabama 1975.

Total Registration of Voters	1,793,220	1,793,220
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25. REMOVAL OF PRISONERS:

(a) Administrative Services and Logistical Support Program, Estimated 387,926

SOURCE OF FUNDS:

(1) State General Fund 387,926

As provided in Sections 15-10-70 through 15-10-73, 15-9-62, 15-9-65 and 15-9-81, Code of Alabama 1975.

Total Removal of Prisoners.....	387,926	387,926
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26. STATE GENERAL FUND, ESTIMATED:

SOURCE OF FUNDS:

(1) Heritage Trust Income Fund Transfer, Estimated..... 53,000,000

All income other than income realized on sale of Trust Fund assets and not otherwise appropriated herein.

Total State General Fund, Estimated	53,000,000	53,000,000
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2E. DEBT SERVICE FUNDED FROM THE STATE GENERAL FUND:

1. General Obligation Capital Improvement Bonds, Series B, Estimated.....		1,242,500
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SOURCE OF FUNDS:

(1) State General Fund, Estimated	1,242,500	
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Total General Obligation Capital Improvement Bonds, Series B, Estimated	1,242,500	1,242,500
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2. General Obligation Waterway Refunding Bonds, Series 1992, Estimated		1,766,233
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SOURCE OF FUNDS:

(1) State General Fund, Estimated	1,766,233	
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Total General Obligation Waterway Refunding Bonds, Series 1992, Estimated	1,766,233	1,766,233
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3. General Obligation Docks Facilities Bonds, Series C, Estimated		1,098,000
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SOURCE OF FUNDS:

(1) State General Fund, Estimated	1,098,000	
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Total General Obligation Docks Facilities Bonds, Series C, Estimated	1,098,000	1,098,000
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4. Music Hall of Fame Bonds, Estimated		346,870
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SOURCE OF FUNDS:

(1) State General Fund, Estimated	346,870	
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Pursuant to Constitutional
Amendment No. 489 as pro-
vided in Act 88-549, 1988
Regular Session.

Total Music Hall of Fame Bonds, Estimated	346,870	346,870
5. Corrections Institutions Bonds, Estimated		1,466,500

SOURCE OF FUNDS:

(1) State General Fund, Estimated	1,466,500
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Pursuant to Constitutional
Amendment No. 374 as pro-
vided for in Act No. 134,
1978 Second Special Session.

Total Corrections Institutions Bonds, Estimated	1,466,500	1,466,500
6. General Obligation Re- funding Bonds, 1983, Series A and B, Estimated		37,885,416

SOURCE OF FUNDS:

(1) State General Fund, Estimated	37,885,416
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Total General Obligation Refunding Bonds, 1983, Series A and B, Estimated	37,885,416	37,885,416
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7. General Obligation Capital Bonds, 1990 Series, Esti- mated		1,930,935
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SOURCE OF FUNDS:

(1) State General Fund, Estimated	1,930,935
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Pursuant to Constitutional
Amendment No. 510 as pro-
vided for in Act 89-799, 1989
Regular Session.

Total General Obligation Capital Bonds, 1990 Series, Estimated	1,930,935	1,930,935
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8. General Obligation Refunding Bonds, 1992, Series A and B, Estimated.....	14,273,383
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SOURCE OF FUNDS:

(1) State General Fund, Estimated	14,273,383	
Total General Obligation Refunding Bonds, 1992, Series A and B, Estimated	14,273,383	14,273,383

SECTION 3. In addition to all other appropriations heretofore or hereafter made, there is hereby appropriated \$12,905,638 from the State General Fund for the pro rata General Fund cost of the 27th Pay Day in FY 1993-94. These funds are to be distributed by the Department of Finance to state agencies for the pro rata General Fund cost of the 27th Pay Day (not otherwise provided for) based upon agency certification and Department of Finance verification in a format as prescribed by the Director of Finance.

SECTION 4. That, except as may be herein otherwise provided, amounts herein specifically appropriated shall be in lieu of the amounts heretofore provided or appropriated by law for such purposes. That the amounts herein appropriated are the maximum amounts to be expended for the purposes herein designated and in no event shall the maximum expenditure provided for any items of expense exceed the amount allocated herein except as may be provided for under Sections 6 and 7 of this bill, as provided in the Budget Management Act of 1976, Sections 41-19-1 et seq., Code of Alabama 1975, and those appropriations hercin made, except appropriations to the ~~Alabama~~ **Alabama Alcoholic Beverage Control Board** for the purchase of alcoholic beverages, are and shall be subject to the terms, conditions, provisions and limitations of Sections 41-4-80 et seq., Code of Alabama 1975, and the Budget Management Act of 1976, Sections 41-19-1 et seq., Code of Alabama 1975.

SECTION 5. That any surplus remaining in any appropriation herein made from the State General Fund to any office, department, bureau, board, commission or agency may be transferred, on order of the Governor, to any other appropriation herein made from the State General Fund when such appropriation to any office, department, bureau, board, commission or agency is insufficient to pay salaries in that office, department, bureau, board, commission or agency.

SECTION 6. In addition to appropriations herein made, all gifts, grants, contributions or entitlements, in excess of the amount

carried in the bill, including grants by the Congress of the United States, municipalities or counties, to any department, division, board, bureau, commission, agency, institution, office or officer of the State of Alabama are hereby appropriated and, in the event the same are recurring, are reappropriated to such department, division, board, bureau, commission, agency, institution, office or officer to be used only for the purpose or purposes for which the grant or contribution was or shall be made. Further, all state, county, municipal and educational entities are authorized to disburse such sums as deemed necessary by mutual agreement between said entities and the State of Alabama, Department of Examiners of Public Accounts to partially defray the cost of auditing services performed by said agency. All such sums are hereby appropriated and reappropriated if necessary to the Department of Examiners of Public Accounts for audit services, to be expended through the fund established by Section 41-5-24, Code of Alabama 1975.

SECTION 7. All interest earned from funds paid into Account No. 396 (formerly Account No. 305735) by Act 87-761, Act 88-947, Act 89-79, Act 90-556 and Act 91-572 are hereby appropriated to the Governor's Contingency Fund to be spent at the discretion of the Governor. Any other interest earned by the state from Revenue Sharing Investments under the State and Local Fiscal Assistance Act of 1972, as amended, Public Law 92-512, 92nd Congress, together with any accruals or reversions thereon are hereby appropriated to the State General Fund.

SECTION 8. All encumbered balances of a previous fiscal year appropriation, other than the exclusions authorized in Section 41-4-93, Code of Alabama 1975, shall lapse no later than September 30 of the fiscal year immediately following the fiscal year for which the appropriation was made and shall revert to the credit of the State General Fund or earmarked fund from which the appropriation or appropriations were made.

SECTION 9. The appropriations made herein to the departments, boards, offices, commissions and agencies include the amounts necessary and said departments, boards, offices, commissions and agencies are hereby directed to make the transfer of funds to the State Personnel Department in said amounts enumerated in this Act. All agencies enumerated in this Act and receiving services from other governmental agencies enumerated in this Act shall make full payment in a timely manner (as determined by the Department of Finance) for such services.

SECTION 10. (a) Funds appropriated from the State General Fund or earmarked state funds in this act to any state department, division, board, bureau, commission, agency, institution, or office (with the exception of local boards of education, the

State Highway Department, postsecondary institutions of education and the legislative branch of government) shall not be expended for the purchase or lease of automotive vehicles. Notwithstanding the foregoing, the Department of Public Safety may purchase automotive vehicles to be used for direct law enforcement purposes only. The Department of Public Safety may not transfer automotive vehicles from law enforcement personnel nor vehicles designated for law enforcement purposes to other personnel in that department nor shall vehicles be transferred to be used for any other purpose in that department nor transferred to any other state agency. A state agency may request to purchase or lease automotive vehicles for emergency purposes. The request shall be made in writing to the Director of Finance, the Chairman of the House Committee on Ways and Means, and the Chairman of the Senate Committee on Finance and Taxation. The request shall explain the nature of the automotive purchase or lease and the emergency need for the vehicle. The request shall be approved unanimously by the Director of Finance, the Chairman of the House Committee on Ways and Means, and the Chairman of the Senate Committee on Finance and Taxation prior to the purchase or lease of any automotive vehicle.

(b) No funds appropriated in this act shall be expended for the purpose of purchasing optional equipment on state motor vehicles that consist of stereo equipment, power seats, leather upholstery, premium wheel covers, deluxe exterior trim, or sun roofs.

SECTION 11. If any section, paragraph, sentence, clause, provision or portion of this Act or all or any portion of any appropriations herein made be held unconstitutional or invalid, it shall not affect any other section, paragraph, sentence, clause, provision or portion of this Act or any other appropriation or appropriations or portion thereof hereby made not in and of itself unconstitutional or invalid.

SECTION 12. All laws and parts of laws, general, special, private or local in conflict with or inconsistent with the provisions of this Act be and the same are hereby expressly repealed.

SECTION 13. Each agency of the State funded through the provisions of this Act shall provide an equal opportunity for employment and business opportunities for all citizens of this state without regard to sex or race.

SECTION 14. This Act shall become effective October 1, 1993.

Approved May 27, 1993

Time: 10:40 A.M.

Act No. 93-772

H. 222 – Rep. Harper

AN ACT

To make appropriations for the support, maintenance and development of public education in Alabama, for debt service, and capital outlay for the fiscal year ending September 30, 1994.

Be It Enacted by the Legislature of Alabama:

SECTION 1. There is hereby appropriated for the support of public education in Alabama for the fiscal year ending September 30, 1994, for debt service, and for capital outlay to be paid out of funds specified in subsection (a) of Section 2 of this act, the amounts specified in Sections 3 to 4 of this act. For the purpose specified in subsection (b) of Section 2 of this act, amounts are shown by programmatic area and the total for all programs is shown so as to include estimated sources of funds other than those listed in subsection (a) of Section 2 of this act. For the purpose of this act, "ASETF" shall mean the Alabama Special Educational Trust Fund and "Federal and Local Funds" shall mean all gifts, grants, contributions, or entitlements, including grants by the Congress of the United States, municipalities or counties.

SECTION 2. (a) The appropriations provided for in this act shall be paid from funds in the State Treasury to the credit of the Alabama Special Educational Trust Fund, Alabama Peace Officers' Standards and Training Fund, and Public School Fund and are hereby made for the support of public education in Alabama for the fiscal year ending September 30, 1994, and the appropriations herein made shall be subject to the provisions, terms, conditions and limitations of the Budget and Financial Control Act (Code of Alabama 1975, Sections 41-4-80 through 41-4-96), the provisions of The Budget Management Act of 1976 (Code of Alabama 1975, Sections 41-19-1 through 41-19-12), and shall be in the amounts hereinafter specified.

(b) Amounts shown herein under the columns "Earmarked Funds" and "Appropriation Total" are as set forth for the purpose of establishing amounts estimated to be available by programmatic area from sources other than those listed in subsection (a) of this Section 2, in order, upon consideration of such other funds so estimated to be available, to promote the accountability for an efficient use of funds available and are hereby appropriated by the Legislature. Provided, however, that regardless of the ending date of any pay period which has been or may be established by the Legislature for the payment of salaries of state employees, the entire payment due shall be made from the fiscal year's appropriation in which the pay date falls.

	Fund Sources Included In Appropriation Total		
	ASETF	Earmarked Funds	Appropriation Total
SECTION 3.			
A. STATE AGENCIES:			
1. AMERICAN LEGION AND AUXILIARY SCHOLAR- SHIPS:			
(a) Support of Other Educa- tional Activities Program			101,816
SOURCE OF FUNDS:			
(1) ASETF	101,816		
Total American Legion and Auxiliary Scholarships	101,816		101,816
To be expended under the pro- visions of Code of Alabama 1975, Sections 16-31-1 through 16-31-4.			
2. ARTS, STATE COUNCIL ON THE:			
(a) Fine Arts Program			2,796,048
SOURCE OF FUNDS:			
(1) ASETF	2,021,048		
(2) Federal and Local Funds...		775,000	
Total State Council on the Arts	2,021,048	775,000	2,796,048
Of the above appropriation, \$50,000 shall be allocated to the Birmingham Arts Festival and \$17,000 shall be allocated to the Wiregrass Museum of Art.			
3. CHILD ABUSE AND NEGLECT PREVENTION BOARD:			
(a) Social Services Program			432,000

In accordance with Sections
26-16-1 et seq., Code of
Alabama 1975.

SOURCE OF FUNDS:

(1) ASETF	432,000	
Total Child Abuse and Neglect Prevention Board	432,000	432,000

4. DEBT SERVICE:

(a) Debt Service Program.....	649,708
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For interest on endowments
as follows:

For interest on University of
Montevallo (Alabama College)
Endowment,
Estimated34,964

Provided, that the amount
paid shall conform to the
amount certified as due and
payable by the Governor,
Finance Director, and State
Treasurer pursuant to Act
93-335.

For interest on Auburn Uni-
versity Endowment.....20,280

For interest on University of
Alabama
Endowment61,000

For interest on Grove Hill
Endowment600

For interest on Public School
Fund Endowment:

Interest on 16th Section
Lands, Estimated.....410,000

Interest on School Indemnity
Lands, Estimated.....90,000

Interest on Valueless 16th
Section Lands.....5,825

Interest on Surplus
Revenue26,764

Interest on James Wallace
Fund.....275

Total Interest on Public School
Fund Endowment.....532,864

SOURCE OF FUNDS:

(1) ASETF	<u>649,708</u>	
Total Debt Service	<u>649,708</u>	<u>649,708</u>

**5. DENTAL SCHOLARSHIP
AWARDS, BOARD OF:**

(a) Support of Other Educa- tional Activities Program		159,286
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SOURCE OF FUNDS:

(1) ASETF	<u>159,286</u>	
Total Board of Dental Scholar- ship Awards.....	<u>159,286</u>	<u>159,286</u>

To be expended under the pro-
visions of Code of Alabama
1975, Sections 16-47-76
through 16-47-81.

**6. EDUCATION, DEPART-
MENT OF:**

(a) Administrative Services Program.....		17,644,144
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The proposed spending plan
for the ASETF monies
included in the above pro-
gram is as follows:

Compact for Education...43,623

Operations and Maintenance
of Department4,447,233

Of the above appropriation for
Operations and Maintenance,
\$84,600 shall be expended for
the Homework Hotline As-
sistance Program.

Leadership and
Management1,407,952

Of the above appropriation to Leadership and Management, an amount up to \$250,000 shall be expended on Project LEAD and \$200,000 shall be expended for the Children's Theatre.

Electronic Network282,000

SOURCE OF FUNDS:

(1) ASETF	6,180,808		
(2) Federal and Local Funds...		11,463,336	
		<hr/>	
Total Administrative Services Program.....	6,180,808	11,463,336	17,644,144
		<hr/>	
(b) Adult Basic Education Program.....			10,204,788

SOURCE OF FUNDS:

(1) ASETF	3,432,728		
(2) Federal and Local Funds...		6,772,060	
		<hr/>	
Total Adult Basic Education Program.....	3,432,728	6,772,060	10,204,788
		<hr/>	

Of the above appropriation, \$70,000 shall be expended for the Montgomery County Adult Education Program.

(c) Community Education Program.....			1,129,794
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Of the above appropriation to the Department of Education for Community Education, \$76,928 shall be allocated to the Birmingham Board of Education, Department of Community Education.

SOURCE OF FUNDS:

(1) ASETF	914,144		
(2) Federal and Local Funds...		215,650	
		<hr/>	
Total Community Education Program.....	914,144	215,650	1,129,794
		<hr/>	

Of the above appropriation for Community Education, \$200,000 shall be expended as follows: Each of the 64 existing full-time units will receive a \$2,300 increase. Each of the 23 existing part-time units will receive a \$1,000 increase. Two new full-time units will be funded at \$12,000 each and one new part-time unit will be funded at \$5,800.

(d) Financial Assistance Program.....

368,807,808

The proposed spending plan for the ASETF monies included in the above program is as follows:

State Occupational Information Coordinating Committee.....250,000

To be conditioned upon the availability of funds in the ASETF, the recommendation of the Finance Director and the approval of the Governor.

Alabama Building Commission.....450,000

Tennessee Valley Exhibit Commission-Capital Outlay200,000

Elementary Teachers Scholarships.....21,503

To be paid in accordance with Code of Alabama 1975, Section 16-23-17.

Teacher Inservice Centers2,346,067

The State Board of Education shall administer the Inservice Educational Centers

and shall monitor said centers for compliance with established accountability standards. Of the above appropriation, \$150,299 may be used by the State Board of Education for the administration and monitoring of said centers. The above appropriation shall be distributed in the following manner:

(aa) The sum of \$74,707 shall be distributed to each of the following in-service centers:

- (1) Alabama A&M University
- (2) Alabama State University
- (3) Athens State College
- (4) Auburn University
- (5) Jacksonville State University
- (6) Troy State University
- (7) University of Alabama
- (8) University of Alabama at Birmingham
- (9) University of Montevallo
- (10) University of North Alabama
- (11) University of South Alabama

(bb) The remainder of the above appropriation shall be allotted to each in-service center based on the number of state-funded teacher units earned in each region as reported by the State Department of Education, Revised Calculations for 1992-93, and

the number of teachers employed as reported on the 1992-93 LEA Personnel Report for Additional Allocation for Special Education and State Vocational Education Teachers. Each in-service center shall be affiliated with the same region each center served on October 1, 1987. In addition, the appropriation made in (aa) and (bb) above shall be distributed to the named in-service centers within five days of each quarterly allotment to the State Department of Education.

SOURCE OF FUNDS:

(1) ASETF	3,017,570		
(2) Federal and Local Funds...		365,790,238	
Total Financial Assistance Program	3,017,570	365,790,238	368,807,808
(e) Alabama Young Farmers Education Program			45,252

SOURCE OF FUNDS:

(1) ASETF	45,252		
Total Alabama Young Farmers Education Program	45,252		45,252
(f) Instructional Technical Assistance Program			10,356,739

The proposed spending plan for the ASETF monies included in the above program is as follows:

Basic Skills Program...	890,218
Early Childhood Education Administration	93,344
Instructional Technical Assistance	1,205,699
Special Education Administration	378,198

Vocational Education
Administration.....939,368

National Geographic Grant-
Matching Funds45,252

Drug Education40,945

Teaching Children with
Disabilities
Administration.....100,000

SOURCE OF FUNDS:

(1) ASETF.....	3,693,024		
(2) Federal and Local Funds...		6,663,715	
<hr/>			
Total Instructional Technical Assistance Program	3,693,024	6,663,715	10,356,739
<hr/>			
(g) Local Agency Support Program.....			19,270,423

The proposed spending plan
for the ASETF monies
included in the above pro-
gram is as follows:

Advanced Placement...413,775

School Bus Driver Training
and Vehicle Safety
Inspection545,315

Free Textbooks12,734,770

In addition to the above appro-
priation for Textbooks, there
is hereby appropriated
\$5,000,000 to be conditioned
on the availability of funds in
the ASETF, the recommen-
dation of the Finance
Director and the approval of
the Governor. This shall be
the first priority conditional
and shall be released prior to
the release of any other con-
ditionals.

Guidance and
Counseling.....177,852

Operations and
Maintenance.....111,604
School Attendance.....165,632
School Facilities and
Architectural
Services.....182,858
Testing2,192,289
Emergency Food Assistance
and Child Nutrition Pro-
grams62,285

SOURCE OF FUNDS:

(1) ASETF	16,586,380		
(2) Federal and Local Funds...		2,684,043	
Total Local Agency Support Program	<u>16,586,380</u>	<u>2,684,043</u>	<u>19,270,423</u>
(h) Regulation Program			2,215,461

The proposed spending plan
for the ASETF monies
included in the above pro-
gram is as follows:

Teacher Certification and
Accreditation550,700
Undergraduate/Graduate Pro-
gram Approval.....236,158
Operations and
Maintenance.....475,704

SOURCE OF FUNDS:

(1) ASETF	1,262,562		
(2) Federal and Local Funds...		952,899	
Total Regulation Program	<u>1,262,562</u>	<u>952,899</u>	<u>2,215,461</u>
(i) Support of Other Educa- tional Activities Program			15,000

The proposed spending plan
for the ASETF monies
included in the above pro-
gram is as follows:

Education of Dependents of
Blind Parents15,000

SOURCE OF FUNDS:

(1) ASETF	15,000	
Total Support of Other Educational Activities Program	15,000	15,000

For reimbursement of every state institution of higher learning, college, university, or technical college or junior college in which benefits are given to dependents of blind parents under the provisions of Code of Alabama 1975, Sections 16-33-1 through 16-33-12.

(j) Support of State Universities Program		50,000
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SOURCE OF FUNDS:

(1) Federal and Local Funds...	50,000	
Total Support of State Universities Program	50,000	50,000

(k) Multi-System Evaluation Center Program		94,000
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SOURCE OF FUNDS:

(1) ASETF	94,000	
Total Multi-System Evaluation Center Program	94,000	94,000

(l) Education Specialist for Litter Education Program		50,000
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SOURCE OF FUNDS:

(1) ASETF	50,000	
Total Education Specialist for Litter Education Program	50,000	50,000

(m) Alabama Center for Law and Civic Education		56,000
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SOURCE OF FUNDS:

(1) ASETF	56,000	
Total Alabama Center for Law and Civic Education	56,000	56,000

(n) Alabama Writing Project ..	100,000
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SOURCE OF FUNDS:

(1) ASETF	100,000	
Total Alabama Writing Project..	100,000	100,000

(o) Minority Student Recruitment Program	100,000
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SOURCE OF FUNDS:

(1) ASETF	100,000	
Total Minority Student Recruitment Program	100,000	100,000

(p) Coordinator of School Health Services	62,500
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SOURCE OF FUNDS:

(1) ASETF	62,500	
Total Coordinator of School Health Services	62,500	62,500

It is the intent of the Legislature that the Coordinator of School Health Services and any School/Nurse Consultants employed by any school be a Registered Nurse.

(q) Eye Examinations and Screening Program	600,000
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SOURCE OF FUNDS:

(1) ASETF	600,000	
Total Eye Examinations and Screening Program	600,000	600,000

To implement requirements of Code of Alabama 1975, Section 16-29-1 so that each child in the public schools of Alabama grades K-1-2 be given an eye screening examination using this appropriation in conjunction with private funds of \$200,000. Thereafter, each child entering kindergarten in the public

schools shall have free eye screening the cost of which shall be borne for a period of four years from private funds committed for that purpose. The method of screening shall be color photorefracton.

(r) PALS - Litter Education Program.....		25,000
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SOURCE OF FUNDS:

(1) ASETF	25,000	
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Total PALS - Litter Education Program.....	25,000	25,000
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The above appropriation is for a statewide litter education program.

(s) Math, Science and Debate Competition Program	50,000
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SOURCE OF FUNDS:

(1) ASETF	50,000	
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Total Math, Science and Debate Competition Program.....	50,000	50,000
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(t) Agriculture in Education Program.....	25,000
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SOURCE OF FUNDS:

(1) ASETF	25,000	
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Total Agriculture in Education Program	25,000	25,000
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(u) Alabama Rural Community Fire Protection Institute ..	100,000
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SOURCE OF FUNDS:

(1) ASETF	100,000	
<hr/>		
Total Alabama Rural Community Fire Protection Institute.....	100,000	100,000
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For use in furnishing assistance in the teaching of fire prevention and fire safety in the public schools of Alabama.

(v) Cahawba Advisory Board Program	25,000
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SOURCE OF FUNDS:

(1) ASETF	25,000	
Total Cahawba Advisory Board Program.....	25,000	25,000

TOTAL DEPARTMENT OF EDUCATION:

SOURCE OF FUNDS:

(1) ASETF	36,434,968		
(2) Federal and Local Funds...	394,591,941		
GRAND TOTAL DEPARTMENT OF EDUCATION.....	36,434,968	394,591,941	431,026,909

In addition to the above appropriation, the amount of \$500,000 shall be conditionally appropriated to the Department of Education for the Blue Ribbon Schools program to be equally divided among the schools in the state which have earned the Blue Ribbon designation in school year 1992-93. This appropriation is conditioned upon the availability of funds in the ASETF, the recommendation of the Finance Director and the approval of the Governor.

7. EDUCATION, STATE BOARD OF – MINIMUM PROGRAM AND PUBLIC SCHOOL FUND:

(a) Minimum Program	812,897,622
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SOURCE OF FUNDS:

(1) ASETF	750,221,137		
(2) Public School Fund	58,000,000		
(3) Local Funds.....	4,676,485		
Total Minimum Program, Public School Fund and Local Funds	750,221,137	62,676,485	812,897,622

The above appropriation shall be paid in accordance with Code of Alabama 1975, Sections 16-13-50 through 16-13-59, and all other legislation pertaining thereto. For the Public School Fund all funds derived from the levy of the special annual tax of thirty cents on each one hundred dollars (\$100) of taxable property in this State for the support and maintenance of the public schools and from other funds mentioned and enumerated in Sections 257, 258, and 259 of the Constitution of Alabama 1901 and the amount appropriated from all other funds as is now provided by law, however, not more than four percent of the Public School Funds appropriated above shall be used or expended otherwise than for the payment of teachers employed in such schools. If the Public School Fund receives more revenue than appropriated for the fiscal year ending September 30, 1994, the excess in revenue shall be carried over as a beginning balance for the fiscal year beginning October 1, 1994.

Total Teacher Units....25,511.34

It is provided in the event that there are more earned teacher units for the fiscal year 1993-94 than those set out above, then such amount necessary to pay for these excess teacher units is hereby appropriated. It is further provided that in the event that there are less earned teacher units than those set out above, then the amount that would have been necessary to pay for these earned teacher units shall not be allotted or paid. It is further provided that in the event that there be less than the amount appropriated hereinabove available from the Public School Fund for the

fiscal year 1993-94, then such amount necessary to pay any such shortfall in the Public School Fund monies is hereby appropriated from the ASETF.

In allocating the funds in subsection (a) the State Board of Education shall allot as follows:

(aa) For Board of Adjustment Awards Total not to exceed\$300,000

(bb) For Salaries Total not to exceed\$656,088,332

<u>Rank</u>	<u>Salary Allotment</u>	<u>Number of TU</u>	<u>Total</u>
AA	\$28,207	3,214.42	\$90,669,145
I	26,410	15,434.37	407,621,712
II	22,994	6,862.55	157,797,475
III	19,361	0.00	0
IV	16,813	0.00	0
		25,511.34	\$656,088,332

The State Board of Education shall have the discretion to redistribute the number of teacher units allotted in each rank provided, however, the total amount allotted for salaries shall remain the same.

(cc) For Principal Supplement
Per Teacher Unit.....100.00

Total not to exceed ...\$2,551,134

(dd) For Other Current Expense
Per Teacher Unit3,539.55

Total not to exceed ..\$90,298,663

(ee) For Capital Improvements
Per Teacher Unit55.00

Total not be exceed ..\$1,403,125

(ff) For Transportation Total
not to exceed..... \$62,256,368

8. EDUCATION, STATE BOARD OF - LOCAL BOARDS:

(a) State Board of Education,
Local Boards Program

729,397,261

SOURCE OF FUNDS:

(1) ASETF	729,397,261	
Total State Board of Education – Local Boards	729,397,261	729,397,261

To be distributed by the State Board of Education for:

(1) Teachers' Sick Leave.....4,458,026

Of the appropriation hereinabove made for Teachers' Sick Leave, the rate of not more than \$20.50 per day is hereby appropriated.

It is the intent of the Legislature that the rate of local supplements paid by each school system for teachers' sick leave for the 1992-93 fiscal year be continued at that rate through the 1993-94 fiscal year. The above appropriation shall be in addition to any local supplements paid for teachers' sick leave within a system.

(2) Support Personnel Sick Leave.....1,893,330

Of the appropriation hereinabove made for Support Personnel Sick Leave, in accordance with Code of Alabama 1975, Section 16-1-18, the rate of not more than \$17 per day is hereby appropriated.

(3) Teachers' Personal Leave.....1,692,530

The appropriation hereinabove made for Teachers' Personal Leave provides for two (2) days personal leave at the rate of not more than \$20.50

per day per teacher unit for each teacher employed (except for ESEA Chapter 1 and 2 teachers). It is the intent of the Legislature that the rate of local supplements paid by each school system for teachers' personal leave for the 1992-93 fiscal year be continued at that rate through the 1993-94 fiscal year. The above appropriation shall be in addition to any local supplements paid for teachers' personal leave within a system.

(4) Support Personnel Personal Leave.....414,409

The appropriation hereinabove made for Support Personnel Personal Leave, in accordance with the provisions of Code of Alabama 1975, Section 16-8-26.1, provides for two (2) days personal leave at the rate of not more than \$17 per day.

(5) Classroom Instructional Supplies21,410,454

Maximum Per Teacher

Unit.....480.00

Of the above appropriation an amount not to exceed the maximum is to be allotted on a per teacher unit basis for grades K-12 for all teachers employed (except ESEA Chapter 1 and 2 teachers). Notwithstanding the provisions of Code of Alabama 1975, Section 16-13-40, the above appropriation shall be expended solely for the purchase of instructional supplies

to be used in the classrooms within each public school system. The adoption of a budget for the expenditure of this appropriation shall be by secret ballot. Each local school superintendent shall submit a notarized affidavit to the State Department of Education certifying that funds appropriated in this section have been expended only for instructional supplies or instructional equipment for classrooms as provided and required in Section 16-13-13, Code of Alabama 1975. On the affidavit, the superintendent shall state the amount of funds expended for use by classroom teachers and the amount of funds expended for collective purchases for instructional purposes. The affidavit of expenditures shall be subject to audit by the Examiners of Public Accounts. Any funds appropriated herein and not expended for said purpose by any school system shall revert to the Alabama Special Educational Trust Fund. In the event proration is declared in the Alabama Special Educational Trust Fund, each local school system shall expend at least 80% of its allocation of the above appropriation for instructional supplies notwithstanding the provisions of Code of Alabama 1975, Section 16-13-144. Any law, rule or regulation to the contrary notwithstanding, each local board of education may

purchase classroom school supplies in bulk pursuant to the competitive bid law, or upon resolution passed at a meeting called for the purpose and with notice, any board may allocate funds to individual schools or to teachers to purchase such classroom supplies by the voucher system and proper accounting safe-guards. Such method shall be determined prior to the beginning of the first term of the school year, by each local school board. Restrictions shall not be devised (or imposed) to prohibit the ordering of Classroom Instructional Supplies beyond December 1 to the full extent of the appropriation.

(6) Kindergarten Instructional Supplies1,031,343

The above appropriation shall be expended solely for the purchase of kindergarten instructional supplies to be used in the classrooms within each public school system. Each local school superintendent shall submit a notarized affidavit to the State Department of Education certifying that funds appropriated in this section have been expended only for kindergarten instructional supplies or instructional equipment for classrooms. On the affidavit, the superintendent shall state the amount of funds expended for use by classroom teachers and the amount of funds expended for

collective purchases for instructional purposes. This appropriation shall be in addition to the funds provided herein for "Classroom Instructional Supplies." However, this appropriation shall be subject to the same rules and regulations as are Classroom Instructional Supplies and shall also be subject to Section 16-13-13, Code of Alabama 1975. Each school shall have a specific policy on the development of the budget for Kindergarten Instructional Supplies consistent with state law, and such policy shall contain a secret ballot provision for the teachers in adopting said budget. The affidavit of expenditures shall be subject to audit by the Examiners of Public Accounts. Any funds appropriated herein and not expended for said purpose by any school system shall revert to the Alabama Special Educational Trust Fund.

In the event proration is declared in the Alabama Special Educational Trust Fund, each local school system shall expend at least 80% of its allocation of the above appropriation for kindergarten instructional supplies. Restrictions shall not be devised (or imposed) to prohibit the ordering of Kindergarten Instructional Supplies beyond December 1 to the full extent of the appropriation.

(7) Maintenance7,816,489

To be distributed to all local boards of education based on a formula to be determined by the State Board of Education.

(8) Continuation of Funds Previously Granted for Special Education27,103,304

(9) Special Schools for Special Education4,328,374

To be distributed by the State Board of Education as follows:

Tuscaloosa Regional Handicapped School407,264

Regional Center for Handicapped Children in Pickens County40,726

Southwest Alabama School for Deaf and Blind366,538

Jasper Shriner School...20,363

Coffee County Board of Education-Project Independence School61,090

Auburn University Preschool for Multi-handicapped Children.....35,024

Montgomery County Board of Education, Program for Deaf Students.61,090

Special Education School in Vinemont in Cullman County104,953

Dothan City Board of Education, Hearing Impaired and Gifted Children Program.....186,120

Houston County Board of Education, Gifted Children Program.....24,436

Cullman City Special Education Program128,453

Cleveland School for the Handicapped	61,090
Tannehill Learning Center	22,897
Alabama Institute for Deaf and Blind to implement the purpose of Code of Alabama 1975, Section 16-39-3, and P.L. 94-142	454,570
Chauncey Sparks Center for Developmental and Learning Disorders	475,142
Geneva County Board of Education	31,088
Jackson County Board of Education	58,280
Tuscaloosa County Board of Education	225,600
Tuscaloosa City Board of Education	225,600
Crenshaw County Board of Education	84,600
Birmingham City Board of Education	188,000
Ozark City Board of Educa- tion	55,000
Dale County Board of Educa- tion	55,000
Daleville City Board of Educa- tion, Gifted Program ...	42,500
Baldwin County Board of Education - Operation Excellence	45,252
Troy City Board of Education	178,929
Geneva City Board of Educa- tion, Gifted Program ...	24,436
Midfield City Board of Education	22,626

DeKalb County Board of Education, Northeast Alabama Regional Special Education Assessment Program.....	58,280
Covington County Board of Education, Audiological Center	58,827
Kilby School, University of North Alabama.....	137,600
Birmingham Board of Education-Family Education Involvement and Support Program.....	70,000
Madison County School Board	50,000
Birmingham Board of Education-Parental Education Involvement Program.....	10,000
Coffee County Board of Education	25,000
Houston County Board of Education-Ashford High School.....	10,000
Winfield City Board of Education	50,000
Mobile County Board of Education	20,000
Sylacauga Alternative School Program.....	30,000
Talladega County Board of Education	27,000
Bessemer City Board of Education-Early Childhood Transition Program	25,000
Scottsboro City Board of Education	30,000
Attalla City Board of Education	25,000
Gadsden City Board of Education-Quest for Excellence	15,000

(10) Kindergarten Teacher
Units88,963,862

Total Teacher Units ...3,104.79

(aa) For Salaries Total not to
exceed\$77,803,540

<u>Rank</u>	<u>Salary Allotment</u>	<u>Number of TU</u>	<u>Total</u>
AA	\$28,207	186.29	\$5,254,682
I	26,410	1,592.76	42,064,792
II	22,994	1,325.74	30,484,066
		3,104.79	\$77,803,540

The State Board of Education shall have the discretion to redistribute the number of teacher units allotted in each rank provided, however, the total amount allotted for salaries shall remain the same.

(bb) For Other Current
Expense Per Teacher
Unit.....3,539.55

Total not to exceed ..\$10,989,559

(cc) For Capital Improvements
Per Teacher Unit55.00

Total not to exceed\$170,763

Of the above appropriation for Kindergarten Teacher Units, twelve (12) units shall be allocated to the Alabama Institute for Deaf and Blind for the Preschool Deaf and Blind Program.

It is the intent of the Legislature to fully fund a statewide kindergarten program at the ratio of seventeen (17) students in average daily attendance for the first four (4) months to one (1) teacher unit. In the event less teacher units are earned for the fiscal year 1993-94, then such amount shall not be allotted or paid. In the event more teacher units are earned for the fiscal year 1993-94, then such amount necessary to pay for these excess teacher units is hereby appropriated.

(11) Continuation of Teacher
Units to reduce pupil-teacher
ratio in grades 3-6..11,137,135

Total Teacher Units382.67

(aa) For Salaries Total not to
exceed\$9,761,608

<u>Rank</u>	<u>Salary Allotment</u>	<u>Number of TU</u>	<u>Total</u>
AA	\$28,207	55.49	\$1,565,206
I	26,410	197.08	5,204,883
II	22,994	130.10	2,991,519
		382.67	\$9,761,608

The State Board of Education shall have the discretion to redistribute the number of teacher units allotted in each rank provided, however, the total amount allotted for salaries shall remain the same.

(bb) For Other Current Expense
Per Teacher Unit3,539.55

Total not to exceed\$1,354,480

(cc) For Capital Improvements
Per Teacher Unit55.00

Total not to exceed\$21,047

(12) Supportive Teacher
Units57,605,877

The above appropriation provides for one extra unit or fraction thereof for each aggregate of fifteen (15) units or fraction thereof earned on regular units in the Minimum Program, Kindergarten Teacher Units and Continuation Teacher Units.

Total Teacher Units ...1,933.25

(aa) For Salaries Total not to exceed\$50,656,713

<u>Rank</u>	<u>Salary Allotment</u>	<u>Number of TU</u>	<u>Total</u>
AA	\$28,207	398.25	\$11,233,438
I	26,410	1,208.28	31,910,675
II	22,994	326.72	7,512,600
		1,933.25	\$50,656,713

The State Board of Education shall have the discretion to redistribute the number of teacher units allotted in each rank provided, however, the total amount allotted for salaries shall remain the same.

(bb) For Other Current Expense
Per Teacher Unit3,539.55

Total not to exceed...\$6,842,835

(cc) For Capital Improvements
Per Teacher Unit55.00

Total not to exceed\$106,329

(13) Special Education Teacher
Units113,829,101

Total Teacher Units...3,800.00

(aa) For Salaries Total not to
exceed\$99,452,403

<u>Rank</u>	<u>Salary Allotment</u>	<u>Number of TU</u>	<u>Total</u>
AA	\$28,207	399.00	\$11,254,593
I	26,410	2,926.00	77,275,660
II	22,994	475.00	10,922,150
		<hr/> 3,800.00	<hr/> \$99,452,403

The State Board of Education shall have the discretion to redistribute the number of teacher units allotted in each rank provided, however, the total amount allotted for salaries shall remain the same.

(bb) For Other Current Expense
Per Teacher Unit.....3,539.55

Total not to exceed ..\$13,450,290

(cc) For Capital Improvements
Per Teacher Unit55.00

Total not to exceed\$209,000

(dd) For Transportation Total
not to exceed.....\$717,408

(14) Vocational
Education86,501,151

The appropriation hereinabove
for Vocational Education

shall be disbursed or obligated in accordance with rules and regulations approved by the State Board of Education upon the recommendation of the State Superintendent. Of the above appropriation, \$940,000 shall be allocated for adult training and apprenticeship programs and \$1,316,000 shall be allocated for technical program improvement. Of the above appropriation, an equal amount shall be allotted to each vocational teacher unit funded herein for support and operations.

(15) Teachers' Aides....3,916,642

To be distributed by the State Board of Education to all local boards of education and the Alabama Institute for Deaf and Blind on the basis of average daily attendance for the preceding school year to employ teacher aides so as to provide each teacher employed a minimum of thirty consecutive minutes of **time free from instructional** or supervisory responsibilities each teaching day.

(16) Salary Increases for Tenured Teachers (Estimated).....101,402,520

To be distributed by the State Board of Education to the boards of all school districts to continue the additional salary allotment of ten percent of those allotments specified under the Minimum Program for the fiscal year 1984-85 for all state-funded

teacher units meeting criteria established by the State Board of Education.

- (17) Support Personnel
Salary Increase
(Estimated).....34,608,680

To be distributed by the State Board of Education to the boards of all school districts to continue those salary increases and the state's share of salary schedule adjustments granted for fiscal year 1985-86 to all full-time support personnel and all adult and student school bus drivers of all local boards of education and all full-time support personnel and all adult and student school bus drivers in the schools under their jurisdiction with the exception of those persons listed on the official Teachers' Institute List. Full-time support personnel shall be defined as those support personnel working a minimum of 20 hours per week. Pursuant to Act 85-516 and Act 85-796, those support personnel working less than a minimum of 20 hours per week shall receive pro rata increases based on the percentage of full-time work as defined above.

- (18) Library Enhancement
(K-12).....4,906,000

To be used for the purchase of books and/or audio visual equipment and other library materials, supplies and equipment including book binding, book repair, computer soft-

ware, cataloging, filmstrips, newspapers, magazines, pictures, recordings, and video tapes. To be distributed based upon a formula to be determined by the State Board of Education.

(19) Elementary Guidance Counselor Teacher
Units11,060,900

Total Teacher Units366.84

(aa) For Salaries Total not to exceed\$9,742,275

<u>Rank</u>	<u>Salary Allotment</u>	<u>Number of TU</u>	<u>Total</u>
AA	\$28,207	44.02	\$1,241,672
I	26,410	315.48	8,331,827
II	22,994	7.34	168,776
		<hr/> 366.84	<hr/> \$9,742,275

The State Board of Education shall have the discretion to redistribute the number of teacher units allotted in each rank provided, however, the total amount allotted for salaries shall remain the same.

(bb) For Other Current Expense
Per Teacher Unit3,539.55

Total not to exceed ...\$1,298,449

(cc) For Capital Improvements
Per Teacher Unit55.00

Total not to exceed\$20,176

(20) Driver Education Teacher
Units or other Teacher Units
as approved by the Local
Board of Education ..8,430,701

Total Teacher Units290.00

(aa) For Salaries Total not to exceed\$7,388,281

<u>Rank</u>	<u>Salary Allotment</u>	<u>Number of TU</u>	<u>Total</u>
AA	\$28,207	20.30	\$572,602
I	26,410	179.80	4,748,518
II	22,994	89.90	2,067,161
		290.00	\$7,388,281

The State Board of Education shall have the discretion to redistribute the number of teacher units allotted in each rank provided, however, the total amount allotted for salaries shall remain the same.

(bb) For Other Current Expense
Per Teacher Unit3,539.55

Total not to exceed ...\$1,026,470

(cc) For Capital Improvements
Per Teacher Unit55.00

Total not to exceed\$15,950

(21) Social Security (FICA) –
Employers' Share..136,786,433

(22) Alabama Education
Foundation100,000

To be distributed on the basis of average daily attendance to each school system to be used for the implementation of Act 92-716, which created the Alabama Education Foundation for K-12 public schools.

(23) School Librarian
Units.3,870,587

The above appropriation is for 129 elementary school librarian units to be distributed equally by the State Board of Education to the boards of all school districts. The appropriation includes salaries, other current expense, and capital improvements at the following rates:

For "Salaries" the total shall not exceed the sum of \$3,406,890 for 129 units at a salary allotment of \$26,410 per unit.

For "Other Current Expense" an amount not to exceed \$3,539.55 for each earned librarian unit not to exceed the sum of \$456,602.

For "Capital Improvements" an amount not to exceed \$55.00 for each earned librarian unit but the total shall not exceed the sum of \$7,095.

The above appropriation to fund School Librarian Units shall be conditioned on availability of funds in the ASETF, the recommendation of the Finance Director, and the approval of the Governor.

(24) Preschool Special Education5,835,760

The above appropriation for preschool special education shall be conditioned on availability of funds in the ASETF, the recommendation of the Finance Director, and the approval of the Governor. The appropriation, if released, shall be allocated to each local board of education by the State Department of Education based on a child count formula approved by the State Board of Education. This appropriation shall be used to provide services as provided for in the Alabama Preschool Special Education Act of 1991.

(25) Early Intervention for Infants and Toddlers Program.....4,000,000

The above appropriation of ~~\$4,000,000~~ to the Early Intervention for Infants and Toddlers Program is conditioned on passage of SB 155 in the Regular Session of 1993, and the availability of funds in the ASETF, the recommendation of the Finance Director, and the approval of the Governor.

(26) Capital Outlay for Replacement of School Buses..5,000,000

The above conditional appropriation shall be distributed on an equitable formula

developed by the State Board of Education in such a manner as to replace as many as possible of school buses built before 1978 and currently operating in the several school systems of this state. This appropriation is conditioned upon the availability of funds in the ASETF, the recommendation of the Finance Director and the approval of the Governor. This shall be the second priority conditional and shall be released prior to the release of any other conditional except the \$5,000,000 conditional for textbooks.

9. EDUCATION, STATE BOARD OF – POSTSECONDARY PRISON EDUCATION:

(a) Operations and Maintenance.....	8,132,298	5,843,370	13,975,668
(b) Library Enhancement	45,382		45,382
(c) High Technology Equipment.....	90,766		90,766
(d) Prison Education Study	100,000		100,000
(e) Restricted Funds.....		3,270,326	3,270,326

SOURCE OF FUNDS:

(1) ASETF	8,368,446		
(2) Federal and Local Funds...		9,113,696	
Total State Board of Education – Postsecondary Prison Education	8,368,446	9,113,696	17,482,142

(1) The Operations and Maintenance appropriation above of \$8,132,298 to the State Board of Education for Postsecondary Prison Education shall be distributed to colleges with approved programs in accordance with the following formula: To each college in accordance with its percentage of the total credit hours

attempted for the summer quarter of the school year 1991-92 and the fall, winter and spring quarters of the school year 1992-93 by all colleges listed in this appropriation provided, however, that funding for junior and technical college credit hours shall be allotted in amounts as near equal as possible to non-prison education two-year college credit hours. The appropriation in (b) above is to be distributed to the following colleges: (1) Central Alabama Community College; (2) John C. Calhoun State Community College; (3) Jefferson Davis State Community College; (4) Gadsden State Community College; (5) J.F. Ingram State Technical College; (6) Theodore A. Lawson State Community College; and (7) Chauncey Sparks State Technical College.

(2) The Library Enhancement appropriation above of \$45,382 is to be distributed to the colleges listed in (1) above on a fall quarter 1992-93 full-time equivalent student enrollment basis with a minimum of \$3.00 per full-time equivalent student to be expended for books. Other expenditures may include book binding, book repair, computer software, cataloging, filmstrips, newspapers, magazines, pictures, recordings, and video tapes.

(3) The High Technology Equipment appropriation above of \$90,766 to the State Board of Education for the Postsecondary Prison System is to be distributed to the colleges listed above in (1) on a needs basis as determined by the Chancellor of the Postsecondary Education System.

**10. EDUCATION, STATE
BOARD OF – POSTSEC-
ONDARY BUSINESS AND
INDUSTRY TRAINING:**

(a) Operations and Maintenance	500,000
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SOURCE OF FUNDS:

(1) ASETF	500,000	
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Total State Board of Education-Postsecondary Business and Industry Training	500,000	500,000

**11. EDUCATION, STATE
BOARD OF – JUNIOR COL-
LEGE SYSTEM:**

(a) Operations and Maintenance	80,213,639	63,108,392	143,322,031
(b) Library Enhancement	274,326		275,326
(c) High Technology Equip- ment	183,552		183,552

(d) Auxiliary Enterprises	10,034,942	10,034,942
(e) Restricted Funds	35,319,507	35,319,507

SOURCE OF FUNDS:

(1) ASETF	80,672,517		
(2) Other Funds		108,462,841	
Total State Board of Education - Junior College System	<u>80,672,517</u>	<u>108,462,841</u>	<u>189,135,358</u>

(1) The Operations and Maintenance appropriation above of \$80,213,639 to the State Board of Education for the Junior College System is to be distributed to the junior colleges listed herein on the following formula:

- (a) The sum of \$275,000 to only those junior colleges enumerated below in subsection (b).
- (b) The remainder of the appropriation is to be allotted to each junior college in accordance with its percentage of the total credit hours attempted for the summer quarter of the school year 1991-92 and the fall, winter and spring quarters of the school year 1992-93 by all the junior colleges listed in this appropriation, provided, however, the nursing and allied health credit hours will be funded on a 2:1 ratio based upon the summer quarter of the school year 1991-92 and the fall, winter, and spring quarters of the school year 1992-93 in accordance with the number of quarter hours attempted within the departments. However, only major allied health courses in animal health, paramedics, dental assistant, respiratory therapy assistant, medical laboratory assistant, physical therapy assistant, and radiation technology will be funded at this ratio. Related courses and other allied health courses will be funded the same as non-health programs. Continuing education unit hours shall be excluded from the computations herein required. The credit hours for prison education (correctional education) shall not be calculated in this section. Funding for those hours is provided in Postsecondary Prison Education. Any credit hours produced by an off campus class with less than twelve students enrolled in that class shall be excluded from the computations for state funding if the total number of credit hours produced by each such class offered by an institution exceeds 12% of the credit hours generated at each off-campus location. The above appropriation is to be distributed to the following junior colleges: (1) Beville State Community College; (2) S.D. Bishop State Community College; (3) John C. Calhoun State Community College; (4) Chattahoochee

Valley Community College (Phenix City); (5) Central Alabama Community College; (6) Jefferson Davis State Community College; (7) Enterprise State Junior College; (8) James H. Faulkner State Community College; (9) Gadsden State Community College; (10) Alabama Southern Community College; (11) Jefferson State Community College; (12) Theodore A. Lawson State Community College; (13) Northeast Alabama State Community College; (14) Northwest Alabama Community College; (15) Shoals Community College; (16) Snead State Community College; (17) Southern Union State Junior College; (18) George C. Wallace State Community College (Selma); (19) George C. Wallace State Community College (Dothan); (20) Lurleen B. Wallace State Junior College; (21) George C. Wallace Community College at Hanceville; (22) Shelton State Community College.

The State Board of Education is hereby directed to enforce a moratorium on the realignment, division, or merger of Northwest Alabama Community College with any other postsecondary institution under the control of the State Board of Education and the Postsecondary Education Department until such time as the Department of Examiners of Public Accounts has conducted a review and made a report concerning the allegations of special funding considerations given by Postsecondary Education Department to certain community colleges. The alignment of Northwest Alabama Community College shall not be altered from that in effect on October 1, 1992. No program or course within the two year college system can be transferred from any designation as junior or technical for funding purposes. Allocations for such programs and courses shall be based upon the same designation as was used for the 1992-93 allocations.

(2) The Library Enhancement appropriation above of \$275,326 to the State Board of Education for the Junior College System is to be distributed to the junior colleges listed above in (1) (b) on a fall quarter 1992-93 full-time equivalent student enrollment basis with a minimum of \$3.00 per full-time equivalent student to be expended for books. Other expenditures may include book binding, book repair, computer software, cataloging, filmstrips, newspapers, magazines, pictures, recordings, and video tapes.

(3) The High Technology Equipment appropriation above of \$183,552 to the State Board of Education for the Junior College System is to be distributed to the junior colleges listed above in (1) (b) on a needs basis as determined by the Chancellor of the Postsecondary Education System.

In addition to the above appropriations, there is hereby conditionally appropriated the sum of \$640,000 to Theodore A. Lawson State Community College to be conditioned upon the availability of funds in the ASETF, the recommendation of the Finance Director, and the approval of the Governor.

In addition to the above appropriations, there is hereby conditionally appropriated the sum of \$600,000 to S.D. Bishop State Community College to be conditioned upon the availability of funds in the ASETF, the recommendation of the Finance Director, and the approval of the Governor.

**12. EDUCATION, STATE
BOARD OF – TECHNICAL
COLLEGE SYSTEM:**

(a) Operations and Maintenance	62,180,993	47,915,631	110,096,624
(b) Library Enhancement	456,682		456,682
(c) High Technology Equipment.....	365,344		365,344
(d) Auxiliary Enterprises		6,201,915	6,201,915
(e) Restricted Funds.....		26,816,662	26,816,662

SOURCE OF FUNDS:

(1) ASETF	63,003,019		
(2) Other Funds.....		80,934,208	
Total State Board of Education – Technical College System ...	63,003,019	80,934,208	143,937,227

(1) The Operations and Maintenance appropriation above of \$62,180,993 to the State Board of Education for the Technical College Sytem is to be distributed to the technical colleges listed herein on the following formula.

- (a) The sum of \$350,000 to only those technical colleges enumerated below in subsection (b).
- (b) The remainder of the appropriation is to be allotted to each technical college in accordance with its percentage of the total credit hours attempted for the summer quarter of the school year 1991-92 and the fall, winter and spring quarters of the school year 1992-93 by all technical colleges listed in this appropriation, provided, however, that the creidt hours from the major flight technology courses at Wallace State College, Hanceville, Northwest Community College and the Alabama Aviation and Technical College for the same quarters as above will be funded on a 2:1 ratio and provided that

the credit hours from the major registered nursing courses at Beville State Community College for the same quarters as above will be funded at the same rate as the credit hours from the major registered nursing courses of the junior colleges. The credit hours for prison education (correctional education) shall not be calculated in this section. Funding for those hours is provided in Postsecondary Prison Education. Any credit hours produced by an off campus class with less than twelve students enrolled in that class shall be excluded from the computations for state funding if the total number of credit hours produced by each such class offered by an institution exceeds 12% of the credit hours generated at each off-campus location. The above appropriation is to be distributed to the following technical colleges: (1) Jefferson Davis State Community College; (2) Alabama Aviation and Technical College; (3) Harry M. Ayers State Technical College; (4) Bessemer State Technical College; (5) Beville State Community College; (6) S.D. Bishop State Community College; (7) S.D. Bishop State Community College-Carver Campus; (8) John C. Calhoun State Community College; (9) Central Alabama Community College; (10) J.F. Drake State Technical College; (11) Gadsden State Community College-Alabama Technical College Campus; (12) Gadsden State Community College-Gadsden State Technical Institute Campus; (13) Alabama Southern Community College; (14) Jefferson State Community College; (15) Theodore A. Lawson State Community College; (16) Douglas MacArthur State Technical College; (17) Northwest Alabama Community College; (18) Opelika State Technical College; (19) John M. Patterson State Technical College; (20) Ed F. Reid State Technical College; (21) Shelton State Community College; (22) Shoals Community College; (23) Chauncey Sparks State Technical College; (24) Council Trenholm State Technical College; (25) C.A. Fredd State Technical College; (26) George C. Wallace State Community College (Selma); (27) George C. Wallace State Community College (Dothan); (28) George C. Wallace State Community College (Hanceville); (29) Faulkner State Community College (base transferred from Southwest State Technical College); (30) J.F. Ingram State Technical College; (31) Snead State Community College; (32) Northeast Alabama State Community College.

The State Board of Education is hereby directed to enforce a moratorium on the realignment, division, or merger of Northwest Alabama Community College with any other postsecondary institution under the control of the State Board of Education and the Postsecondary Education

Department until such time as the Department of Examiners of Public Accounts has conducted a review and made a report concerning the allegations of special funding considerations given by Postsecondary Education Department to certain community colleges. The alignment of Northwest Alabama Community College shall not be altered from that in effect on October 1, 1992. No program or course within the two year college system can be transferred from any designation as junior or technical for funding purposes. Allocations for such programs and courses shall be based upon the same designation as was used for the 1992-93 allocations.

(2) The Library Enhancement appropriation above of \$456,682 to the State Board of Education for the Technical College System is to be distributed to the technical colleges listed above in (1)(b) on a fall quarter 1992-93 full-time equivalent student enrollment basis with a minimum of \$3.00 per full-time equivalent student to be expended for books. Other expenditures may include book binding, book repair, computer software, cataloging, filmstrips, newspapers, magazines, recordings, and video tapes.

(3) The High Technology Equipment appropriation above of \$365,344 to the State Board of Education for the Technical College System is to be distributed to the technical colleges listed in (1)(b) above on a needs basis as determined by the Chancellor of the Postsecondary Education System.

In addition to the above appropriation there is hereby conditionally appropriated the sum of \$300,000 to Shelton State Community College - C.A. Fredd Technical Division. This appropriation is conditioned upon the availability of funds in the ASETF, the recommendation of the Finance Director and the approval of the Governor.

13. EDUCATION, STATE
BOARD OF - POSTSEC-
ONDARY SKILLS TRAIN-
ING AND EDUCATION:

(a) Operations and Maintenance	22,436,059
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SOURCE OF FUNDS:

(1) Federal and Local	22,436,059	
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Total State Board of Education - Postsecondary Skills Train- ing and Education	22,436,059	22,436,059
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14. FAMILY PRACTICE RU-
RAL HEALTH BOARD:

(a) Family Practice Rural Health Program	859,780
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(1) ASETF	<u>859,780</u>
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Total Family Practice Rural Health Board	<u>859,780</u>	<u>859,780</u>
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15. FINANCE, DEPARTMENT OF – TELECOMMUNICATIONS DIVISION, TELEPHONE REVOLVING FUND:

(a) Administrative Support Services Program	4,099,949
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SOURCE OF FUND:

(1) ASETF	<u>4,099,949</u>
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Total Department of Finance - Telecommunications Division, Telephone Revolving Fund	<u>4,099,949</u>	<u>4,099,949</u>
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The Telephone Revolving Fund shall assess to using agencies and institutions any additional amount necessary to provide continuing non-interrupted service of a minimum maintenance level.

16. FINANCE, DEPARTMENT OF – DATA SYSTEMS MANAGEMENT DIVISION:

(a) Administrative Support Services Program	299,566
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To be expended for education and training for the Governmental Accountant and Auditor Training Program and the Certified Public Manager Program.

SOURCE OF FUNDS:

(1) ASETF	<u>299,566</u>
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Total Department of Finance-
Data Systems Management
Division.....

299,566

299,566

17. FINE ARTS, ALABAMA
SCHOOL OF:

(a) Fine Arts Program.....

2,936,776

SOURCE OF FUNDS:

(1) ASETF

2,560,193

(2) Federal and Local Funds...

376,583

Total Alabama School of Fine
Arts

2,560,193376,5832,936,776

18. FIREFIGHTERS PERSON-
NEL STANDARDS AND
EDUCATION COMMISSION,
ALABAMA/ALABAMA FIRE
COLLEGE-SHELTON STATE
COMMUNITY COLLEGE:

(a) Operations and Maintenance

1,862,250

624,707

2,486,957

(b) Auxiliary Enterprises

665,012

665,012

SOURCE OF FUNDS:

(1) ASETF

1,862,250

(2) Other Funds

1,289,719

Total Alabama Firefighters
Personnel Standards and Ed-
ucation Commission/Alabama
State Fire College-Shelton
State Community College.....

1,862,2501,289,7193,151,969

Of the above appropriation of
\$1,862,250, the sum of \$72,210
shall be used for training and
instructional equipment and
the development and delivery
of hazardous materials
training.

19. HEALTH INSURANCE
BOARD, PUBLIC EDUCA-
TION EMPLOYEES':

(a) Administrative Support
Services Program

237,911,040

The above appropriation of \$237,911,040 shall be expended for Hospital/Medical or Dental Insurance Assistance for professional employees, full-time support employees and adult school bus drivers of all institutions under the auspices of the State Board of Education, employees of the Alabama Institute for the Deaf and Blind, Alabama School of Mathematics and Science, the Alabama School of Fine Arts, and retired employees eligible under the provisions of Code of Alabama 1975, Section 16-25A-17. Full-time support employees shall be defined as those support employees working a minimum of 20 hours per week. The appropriation shall be allocated according to the provisions of Code of Alabama 1975, Section 16-25A-17.

It is the intent of the Legislature that the sum of ~~\$237,911,040~~ **appropriated** hereinabove shall fund the Public Education Employees Health Insurance Program so that beginning and during fiscal year 1993-94 all eligible full-time employees shall pay the premium rate of not less than \$2.00 per month and all retired eligible employees shall pay the premium rate of not less than \$1.14 per month. The above contribution rates shall not be reduced by any administrative action by the Public Education Employees'

Health Insurance Board. The benefit level shall not be increased by any administrative action by the Public Education Employees' Health Insurance Board. Furthermore it is the intent of the Legislature that no part of the above appropriation be used to pay for dependent coverage under said health insurance plan.

SOURCE OF FUNDS:

(1) ASETF	237,911,040	
Total Public Education Employees' Health Insurance Board	237,911,040	237,911,040

In addition to the above appropriation to the Public Education Employees' Health Insurance Board, there is hereby appropriated from the ASETF such additional amount as may be necessary to fully fund health claims plus maintain a 12% reserve in the Public Education Employees' Health Insurance Program Fund based on claims paid in the fiscal year beginning October 1, 1993. At the end of each quarter of the fiscal year beginning October 1, 1993, the Public Education Employees' Health Insurance Program Board shall certify to the State Finance Director and the Legislative Fiscal Officer the amount of paid claims for that quarter and the Board's best estimate of the amount necessary to pay claims for the remainder of the fiscal year and the amount necessary to maintain

a 12% reserve based on such estimate for the fiscal year ending September 30, 1994. By September 15, 1994, the Public Education Employees' Health Insurance Program Board shall certify to the State Finance Director and the Legislative Fiscal Officer the amount of paid claims through August 31, 1994. The State Finance Director shall direct that the additional amount necessary to insure that the Public Education Employees' Health Insurance Program actual claims paid through August 31, 1994 and a reasonable estimate of claims to be paid in September 1994 based on actual paid claims through August are fully paid plus the additional amount necessary for the maintenance of a 12% reserve based on paid claims for fiscal year 1994 shall be transferred from the ASETF to the Public Education Employees' Health Insurance Program Fund, such transfer must be made prior to September 30, 1994. The Governor (or his designee) and the Joint Fiscal Committee shall develop a plan to review Public Education Employees' Health Insurance funding, claims and benefits. An amount up to \$50,000 may be expended from the above appropriation to employ an independent actuary for such purpose.

20. HIGHER EDUCATION,
ALABAMA COMMISSION
ON:

(a) Planning and Coordination Services Program..... 1,605,773

The proposed spending plan for the ASETF monies included in the above program is as follows:

Operations and Maintenance.....1,605,773

SOURCE OF FUNDS:

(1) ASETF	1,605,773	
<hr/>		
Total Planning and Coordination Services Program (Total Operations).....	1,605,773	1,605,773
		<hr/>

For purposes of the ACHE funding formula for institutions of higher education, any credit hours produced by an off-campus class with less than twelve students enrolled in that class shall be excluded from the computations for state funding if the total number of credit hours produced by each such class offered by an institution exceeds 12% of the credit hours generated at each off-campus location.

(b) Student Financial Aid Program..... 32,532,900

The proposed spending plan for the ASETF monies included in the above program is to be distributed through ACHE as follows:

(1) Educational Grants Program.....5,525,359

(2) Alabama National Guard Educational Assistance.....181,754

To be expended in accordance with Code of Alabama 1975,

Sections 31-10-1 through 31-10-4.

(3) Emergency Secondary
Education
Scholarships974,726

To be expended in accordance
with Code of Alabama 1975,
Sections 16-23-18 through
16-23-23.

(4) Chiropractic Scholar-
ships.....44,522

To be expended in accordance
with Code of Alabama 1975,
Section 16-5-11.

(5) Alabama Student
Assistance
Program1,818,315

SOURCE OF FUNDS:

(1) ASETF	8,544,676		
(2) Federal and Local Funds...		23,988,224	
Total Student Financial Aid Program.....	8,544,676	23,988,224	32,532,900

(c) Support of Other Educa- tional Activities Program			5,486,113
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The proposed spending plan
for the ASETF monies in-
cluded in the above program
is to be distributed through
ACHE as follows:

(1) Network of Alabama
Academic Libraries
(NAAL).....644,024

(2) Southern Regional
Education Board
(SREB).....395,485

Of the above appropriation,
\$34,000 shall be expended for
a regional minority doctoral
scholars program. In addition

to the above appropriation for the Southern Regional Education Board, there is hereby conditionally appropriated the sum of \$24,800 out of the funds in the ASETF conditioned upon the availability of funds, the recommendation of the Finance Director, and the approval of the Governor to be used by osteopathic medical scholarships for Alabama students studying osteopathic medicine at the West Virginia Medical School.

(3) Alabama Small
Business Development
Consortium.....625,000

(4) Policeman's Survivor Tui-
tion, Estimated.....40,000

To be expended under the pro-
visions of Section 36-21-105,
Code of Alabama 1975.

(5) Alabama Council for Inter-
national Programs.....23,500

(6) EPSCoR-National
Science Foundation
Program.....1,000,000

(7) Research
Enhancement248,884

(8) Computer-Based
Articulation
System1,250,000

To fund, further develop and
expand the computer-based
articulation system operated
by Troy State University to
include all four-year and two-
year postsecondary institu-
tions in the State of Alabama.

SOURCE OF FUNDS:

(1) ASETF 4,226,893

(2) Federal and Local Funds...	<u>1,259,220</u>		
Total Support of Other Educational Activities Program ..	<u>4,226,893</u>	<u>1,259,220</u>	<u>5,486,113</u>

TOTAL ALABAMA COMMISSION ON HIGHER EDUCATION: SOURCE OF FUNDS:

(1) ASETF	14,377,342		
(2) Federal and Local Funds...	<u>25,247,444</u>		
GRAND TOTAL ALABAMA COMMISSION ON HIGHER EDUCATION	<u>14,377,342</u>	<u>25,247,444</u>	<u>39,624,786</u>

21. HUMAN RESOURCES, DEPARTMENT OF:

(a) Jobs Opportunities and Basic Skills Training (JOBS) Program	4,100,000		
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SOURCE OF FUNDS:

(1) ASETF	<u>4,100,000</u>		
Total Department of Human Resources	<u>4,100,000</u>		<u>4,100,000</u>

Of the total state and federal dollars received by the Department of Human Resources for the JOBS program, at least \$1.1 million shall be used to contract with the Department of Education-Adult Basic Education Program for educational services to JOBS participants.

22. INDUSTRIAL DEVELOPMENT TRAINING INSTITUTE, ALABAMA:

(a) Industrial Training Program	1,839,901	167,125	2,007,026
(b) Industrial Development Program	<u>3,718,552</u>		<u>3,718,552</u>

SOURCE OF FUNDS:

(1) ASETF	5,558,453		
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(2) Other Funds.....		167,125	
Total Alabama Industrial Development Training Institute	5,558,453	167,125	5,725,578

Of the above appropriation to AIDT, \$250,000 shall be expended for a retraining program for Gulf States' Steel Corporation to be conducted by Gadsden State Community College and \$300,000 shall be expended by Shelton State Community College for the training of employees for a prison in Bibb County.

23. LIBRARY SERVICE, ALABAMA PUBLIC:

(a) Public Library Service Program.....		9,049,362	
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SOURCE OF FUNDS:

(1) ASETF	7,379,475		
(2) Federal and Local Funds....		1,669,887	
Total Alabama Public Library Service	7,379,475	1,669,887	9,049,362

Of the above appropriation, a minimum of \$4,641,682 shall be distributed to the public libraries within the state.

24. MARINE ENVIRONMENTAL SCIENCES CONSORTIUM:

(a) Support of Other Educational Activities Program		2,653,256	
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SOURCE OF FUNDS:

(1) ASETF	1,913,351		
(2) Federal and Local Funds...		739,905	
Total Marine Environmental Sciences Consortium.....	1,913,351	739,905	2,653,256

**25. MATH AND SCIENCE,
ALABAMA SCHOOL OF:**

(a) Math and Science Program 4,311,529

SOURCE OF FUNDS:

(1) ASETF 4,311,529

Total Alabama School of Math
and Science 4,311,529 4,311,529

**26. MEDICAL SCHOLAR-
SHIP AWARDS, BOARD OF:**

(a) Support of Other Educa-
tional Activities Program 612,707

SOURCE OF FUNDS:

(1) ASETF 612,707

Total Board of Medical
Scholarship Awards 612,707 612,707

To be expended under the pro-
visions of Code of Alabama
1975, Sections 16-47-121
through 16-47-129.

**27. MENTAL HEALTH AND
MENTAL RETARDATION,
DEPARTMENT OF:**

(a) Institutional Treatment
and Care-Mental Illness
Program 7,046,454

Of the above appropriation,
\$2,828,703 shall be expended
at the Eufaula Adolescent
Center.

(b) Institutional Treatment
and Care-Mental Retarda-
tion Program 2,265,485

(c) Alzheimer's Disease Edu-
cation and Training Program 150,000

SOURCE OF FUNDS:

(1) ASETF 9,461,939

Total Department of Mental
Health and Mental Re-
tardation 9,461,939 9,461,939

28. MONTGOMERY INTERNAL MEDICINE RESIDENCY PROGRAM.....

191,000

SOURCE OF FUNDS:

(1) ASETF

191,000

Total Montgomery Internal Medicine Residency Program

191,000

191,000

The above appropriation to the Montgomery Internal Medicine Residency Program from the ASETF shall be in addition to the funds received by said program from the University of Alabama at Birmingham (UAB), and the funds allocated to the Montgomery Internal Medicine Residency Program from UAB shall not be diminished from the amount allocated in fiscal year 1992-93.

29. NURSING, ALABAMA BOARD OF:

(a) Professional and Occupational Licensing and Regulation Program

51,587

SOURCE OF FUNDS:

(1) ASETF-Transfer-as provided in Code of Alabama 1975, Sections 34-21-60 through 34-21-63 for Graduate Nursing Scholarships.....

51,587

Total Alabama Board of Nursing.....

51,587

51,587

30. OPTOMETRIC SCHOLARSHIP AWARDS, BOARD OF:

(a) Support of Other Educational Activities Program

134,850

SOURCE OF FUNDS:

(1) ASETF

134,850

Total Board of Optometric Scholarship Awards	134,850	134,850
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To be expended under the provisions of the Code of Alabama 1975, Sections 34-22-60 through 34-22-65.

31. PEACE OFFICERS' STANDARDS AND TRAINING COMMISSION, ALABAMA:

(a) Professional and Occupational Licensing and Regulation Program	291,047
(b) Certified Law Enforcement Academy Program	934,605

Of the above appropriation for the Certified Law Enforcement Academy Program, the \$534,605 of ASETF monies included therein shall be expended as follows:

Jacksonville State
University.....171,451

University
of Alabama.....171,250

James H. Faulkner Jr.
College135,250

Troy State University
at Montgomery56,654

Total.....534,605

SOURCE OF FUNDS:

(1) ASETF..... 825,652

(2) Alabama Peace Officers' Standards and Training Fund-as provided in Code of Alabama 1975, Sections 36-21-40 through 36-21-51.....	400,000
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Total Alabama Peace Officers' Standards and Training Commission.	825,652	400,000	1,225,652
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32. POSTSECONDARY EDUCATION DEPARTMENT:

(a) Postsecondary Two-Year Institutions Program

3,176,073

The proposed spending plan for the ASETF monies included in the above program is as follows:

Chancellor's Office

Operations1,865,788

Environmental

Consortium250,000

Program Planning and

Enhancement110,797

Displaced Homemakers'

Program107,628

Building Operations309,007

SOURCE OF FUNDS:

(1) ASETF 2,643,220

(2) Federal and Local Funds... 532,853

Total Postsecondary Education Department.....

2,643,220 532,853 3,176,073

33. RETIREMENT SYSTEM OF ALABAMA, EMPLOYEES' (ASETF SHARE):

(a) Retirement Systems Program, Estimated

566,000

SOURCE OF FUNDS:

(1) ASETF-Employees' Retirement System 329,000

(2) ASETF-Employees' Special Pension, Acts 85-631, 88-600, and 90-625..... 237,000

Total Employees' Retirement System of Alabama (ASETF Share)

566,000 566,000

34. RETIREMENT SYSTEM OF ALABAMA, TEACHERS' (ASETF SHARE):

(a) Retirement Systems Program, Estimated	226,883,000
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(b) Term Life Insurance	3,150,000
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Persons eligible for this insurance benefit shall be the following:

- (1) full-time members of the Teachers' Retirement System of Alabama shall be eligible for the full benefit; and,
- (2) part-time members of the Teachers' Retirement System of Alabama shall be eligible for proportional benefit based on the percentage of time each works in relationship to full-time work.

SOURCE OF FUNDS:

(1) ASETF-Teachers' Retirement System, Estimated	177,383,000	
(2) ASETF-Teachers' Special Pension Fund, Estimated	49,500,000	
(3) ASETF-Term Life Insurance	3,150,000	
Total Teachers' Retirement System of Alabama (ASETF Share)	<u>230,033,000</u>	<u>230,033,000</u>

35. SOCIAL SECURITY (ASETF SHARE):

(a) For State's Share of Social Security, Estimated	118,703
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SOURCE OF FUNDS:

(1) ASETF	<u>118,703</u>	
Total Social Security (ASETF Share)	<u>118,703</u>	<u>118,703</u>

The above appropriation is to be used for prior period adjustments.

36. SOIL AND WATER CONSERVATION COMMITTEE, STATE:

(a) Soil Conservation Program 25,000

SOURCE OF FUNDS:

(1) ASETF	25,000	
<hr/>		
Total Soil and Water Conservation Committee.....	25,000	25,000
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For use in educational activities related to proper soil conservation through the prevention of erosion.

37. SPORTS HALL OF FAME, ALABAMA:

(a) Scholarship Program 100,000

SOURCE OF FUNDS:

(1) ASETF	100,000	
<hr/>		
Total Alabama Sports Hall of Fame	100,000	100,000
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38. SUPERCOMPUTER AUTHORITY, ALABAMA:

(a) Administrative Support Services Program 7,000,000

The above appropriation is to be expended in accordance with Sections 41-10-390 through 41-10-406, Code of Alabama 1975.

SOURCE OF FUNDS:

(1) ASETF	6,000,000		
(2) Supercomputer Revolving Fund, Estimated		1,000,000	
<hr/>			
Total Alabama Supercomputer Authority	6,000,000	1,000,000	7,000,000
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39. TENURE COMMISSION, STATE:

(a) Regulation Program 9,722

SOURCE OF FUNDS:

(1) ASETF	9,722	
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Total State Tenure Commission	9,722	9,722
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40. TELEVISION COMMISSION, EDUCATIONAL:

(a) Educational Television and Public Radio Service Program 9,082,205

Of the above appropriation, \$28,788 shall be allocated for distribution of the program "Under the Arbor" and \$25,000 shall be allocated for broadcasting at Troy State University at Dothan.

(b) Federal Grant Program 700,000

The above \$700,000 appropriation to the Educational Television Commission is conditioned upon the award of a federal grant for capital outlay and equipment upgrade purposes.

SOURCE OF FUNDS:

(1) ASETF	5,372,205		
(2) Federal and Local Funds...		4,410,000	
Total Educational Television Commission	5,372,205	4,410,000	9,782,205

The above appropriation includes funding for WLRH-FM in Huntsville, also licensed to the Alabama Educational Television Commission.

41. UNEMPLOYMENT COMPENSATION-LOCAL BOARDS:

(a) State Board of Education, Local Boards Program, Estimated 2,694,798

SOURCE OF FUNDS:

(1) ASETF	2,694,798	
Total Unemployment Compensation Local Boards.....	2,694,798	2,694,798

42. VETERANS' AFFAIRS,
DEPARTMENT OF:

(a) Administration of Veterans' Affairs Program..... 4,152,793

SOURCE OF FUNDS:

(1) ASETF-Transfer	4,152,793	
Total Department of Veterans' Affairs	4,152,793	4,152,793

The above appropriation is for Veterans' Education Benefits and includes pro rata administration costs of the Department of Veterans' Affairs and for the reimbursement to every State institution of higher learning, college, university, junior college or technical college in which benefits are given to Veterans, their wives, widows, or children under the provisions of Code of Alabama 1975, Sections 31-6-1 through 31-6-17.

43. YOUTH SERVICES, DEPARTMENT OF:

(a) Financial Assistance Program..... 4,544,782

The above appropriation for Financial Assistance Program includes \$3,429,483 of ASETF monies. The above appropriation shall be expended by the Youth Services Department School District in a manner consistent with the funding formula cooperatively established by the Youth Services Board and the State Board of Education pursuant to the provisions of Code of Alabama 1975, Sections 44-1-70 through 44-1-77.

(b) C.I.T.Y. Program..... 500,000

(c) Coosa Valley Detention Center	50,000
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SOURCE OF FUNDS:

(1) ASETF	3,979,483		
(2) Federal and Local Funds...		1,115,299	
Total Department of Youth Services	3,979,483	1,115,299	5,094,782

SECTION 4.**COLLEGES, UNIVERSITIES AND SCHOOLS:****I. BOARD OF TRUSTEES OF UNIVERSITY OF ALABAMA**

(a) Operations and Maintenance and Program Support	89,217,859	65,751,500	154,969,359
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The above amounts distributed to the President of the University of Alabama for operations and maintenance funding shall include support for such entities as Industrial Management and Manufacturing Technology and Magnetic Information Technology Programs; Center for Emotionally Disturbed Children; Nursing Scholarships; Advocacy Program for the Developmentally Disabled; Capstone Medical Center; Sports Medicine; Alabama Museum of Natural History; College of Community Health Sciences; University Research Library; Research, Extension and Public Service; School of Mines and Energy Development; Computer Research and Development; Rural Infant Stimulation Environment Program; High Risk Nursery; Safe State Program; Tannehill Learning Center.

(b) Operations and Maintenance and Program Support for the University of Alabama at Birmingham..... 141,858,020 612,585,100 754,443,120

The above amounts distributed to the President of the University of Alabama at Birmingham for operations and maintenance funding shall include support for such entities as University College; Family Practice Residency Programs at Anniston, East End, Jefferson County, Montgomery, Selma and Gadsden; School of Medicine; University Hospitals; School of Optometry; School of Community and Allied Health; Regional Technical Institute; Joint Health Sciences; Educational Finance Initiative; Department of Pediatrics and Children's Hospital; Center for Labor Education and Research; Student Nurses Loans; Center for Diabetes Research; Urban Research and Public Service; School of Dentistry; System Medical Education Program; School of Nursing; Health Related Research and Public Service; Public Health Research Program; Medical Genetics Program; Nursing Scholarships; Program Enhancement/Minority Recruitment; Minority Faculty Development Program; Science, Engineering and Education Program; Molecular Genetic and Biotechnology Program; Hypertension Research; Multipurpose Arthritis Center; School of Engineering and Business Telecommunications

Research Center; School of Public Health; Montgomery Internal Medicine Residency; Center for Advancement of Developing Industries; Center for Cystic Fibrosis Research; Center for Congenital Heart Disease; Biomedical Engineering Sciences; Center for Nuclear Magnetic Resonance Studies; Dental/Medical Research; Medical Grants; Virology Research; Neuroscience Research; Geriatric Service and Research Program; Internal Medicine Development; Sudden Death Research; Research Center for Biomedical Engineering Sciences; Parkinson's Disease-Medical Research.

(c) Operations and Maintenance and Program Support for the University of Alabama in Huntsville

29,321,453 24,610,892 53,932,345

The above amounts distributed to the President of the University of Alabama in Huntsville for operations and maintenance **funding shall include** support for the following entities: School of Primary Medical Care; Kenneth E. Johnson Research Center; Space Initiative; UAH Medical Clinics; Alabama Solar Energy Center; Center for High Technology Management and Economic Research; Rural Primary Care Clerkship; Research Institute; Developmental Computer Education; Center for Applied Optics; Nursing Scholarships; Center for Microgravity Science; Center for Robotics.

(d) Special Mental Health and Chauncey Sparks Center for Developmental and Learning Disorders, University of Alabama at Birmingham.....	4,433,287		4,433,287
(e) Alabama SchoolFest Pro- gram, University of Alabama..	813,639		813,639
(f) Auxiliary Enterprises.....		72,339,095	72,339,095
(g) Restricted Funds.....		183,882,080	183,882,080

SOURCE OF FUNDS:

(1) ASETF	265,644,258		
(2) Other Funds.....		959,168,667	
Total Board of Trustees of University of Alabama.....	265,644,258	959,168,667	1,224,812,925

II. BOARD OF TRUSTEES
OF ALABAMA A&M UNI-
VERSITY

(a) Operations and Mainte- nance and Program Support ...	19,939,480	12,314,616	32,254,096
(b) Desegregation Planning	265,177		265,177
(c) Cooperative Extension, Research and Service.....	400,000	2,805,069	3,205,069
(d) Auxiliary Enterprises.....		5,491,361	5,491,361
(e) Restricted Funds.....		13,447,748	13,447,748

SOURCE OF FUNDS:

(1) ASETF	20,604,657		
(2) Other Funds.....		34,058,794	
Total Board of Trustees of Alabama A&M University.....	20,604,657	34,058,794	54,663,451

III. BOARD OF TRUSTEES
OF ALABAMA STATE UNI-
VERSITY

(a) Operations and Mainte- nance and Program Support ...	20,249,334	12,308,943	32,558,277
(b) Desegregation Planning	200,000		200,000
(c) For Recruiting and Minor- ity Scholarships.....	300,000		300,000

(d) Auxiliary Enterprises	6,389,561	6,389,561
(e) Restricted Funds	9,096,446	9,096,446

SOURCE OF FUNDS:

(1) ASETF	20,749,334		
(2) Other Funds		27,794,950	
Total Board of Trustees of Alabama State University	20,749,334	27,794,950	48,544,284

**IV. BOARD OF TRUSTEES
OF ALABAMA STATE UNI-
VERSITY**

(a) Alabama State University- Miles College Consortium	400,000		400,000
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SOURCE OF FUNDS:

(1) ASETF	400,000		
Total Alabama State University- Miles College Consortium	400,000		400,000

**V. STATE BOARD OF EDU-
CATION – ATHENS STATE
COLLEGE**

(a) Operations and Mainte- nance and Program Support...	5,149,732	5,460,242	10,609,974
(b) Auxiliary Enterprises		578,613	578,613
(c) Restricted Funds		1,126,473	1,126,473

SOURCE OF FUNDS.

(1) ASETF	5,149,732		
(2) Other Funds		7,165,328	
Total State Board of Education- Athens State College	5,149,732	7,165,328	12,315,060

**VI. BOARD OF TRUSTEES
OF AUBURN UNIVERSITY**

(a) Operations and Mainte- nance and Program Support...	113,544,523	93,619,352	207,163,875
(b) Agricultural Experiment Station	18,210,518	14,085,211	32,295,729
(c) Cooperative Extension Service	20,895,162	12,651,801	33,546,963

(d) Horticulture and Aquaculture Research	590,000		590,000
(e) Auxiliary Enterprises		45,866,424	45,866,424
(f) Restricted Funds		62,642,975	62,642,975

SOURCE OF FUNDS:

(1) ASETF	153,240,203		
(2) Other Funds		228,865,763	
Total Board of Trustees of Auburn University	153,240,203	228,865,763	382,105,966

VII. BOARD OF TRUSTEES OF JACKSONVILLE STATE UNIVERSITY

(a) Operations and Maintenance and Program Support ...	21,515,001	15,880,714	37,395,715
(b) Auxiliary Enterprises		3,244,733	3,244,773
(c) Restricted Funds		6,571,470	6,571,470

SOURCE OF FUNDS:

(1) ASETF	21,515,001		
(2) Other Funds		25,696,917	
Total Board of Trustees of Jacksonville State University ..	21,515,001	25,696,917	47,211,918

VIII. BOARD OF TRUSTEES OF LIVINGSTON UNIVERSITY

(a) Operations and Maintenance and Program Support ...	6,720,134	3,509,145	10,229,279
(b) Auxiliary Enterprises		3,280,227	3,280,227
(c) Restricted Funds		382,125	382,125

SOURCE OF FUNDS:

(1) ASETF	6,720,134		
(2) Other Funds		7,171,497	
Total Board of Trustees of Livingston University	6,720,134	7,171,497	13,891,631

IX. BOARD OF TRUSTEES OF UNIVERSITY OF MONTEVALLO

(a) Operations and Maintenance and Program Support ...	11,180,786	7,582,586	18,763,372
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(b) Auxiliary Enterprises	4,559,956	4,559,956
(c) Restricted Funds	2,116,492	2,116,492

SOURCE OF FUNDS:

(1) ASETF	11,180,786		
(2) Other Funds	14,259,034		
Total Board of Trustees of University of Montevallo	11,180,786	14,259,034	25,439,820

X. BOARD OF TRUSTEES OF
UNIVERSITY OF NORTH
ALABAMA

(a) Operations and Maintenance and Program Support...	15,929,253	11,609,728	27,538,981
(b) Auxiliary Enterprises		2,705,412	2,705,412
(c) Restricted Funds		732,985	732,985

SOURCE OF FUNDS:

(1) ASETF	15,929,253		
(2) Other Funds	15,048,125		
Total Board of Trustees of Uni- versity of North Alabama.....	15,929,253	15,048,125	30,977,378

XI. BOARD OF TRUSTEES
OF UNIVERSITY OF SOUTH
ALABAMA

(a) Operations and Maintenance and Program Support...	53,069,481	267,704,540	290,834,030
(b) Auxiliary Enterprises		11,066,701	11,066,701
(c) Restricted Funds		20,570,000	20,570,000

SOURCE OF FUNDS:

(1) ASETF	53,069,481		
(2) Other Funds	269,401,250		
Total Board of Trustees of University of South Alabama ...	53,069,481	269,401,250	322,470,731

No funds herein appropriated
to the University of South
Alabama may be transferred
to or expended by any

foundation or entity not governed by the University's Board of Trustees.

XII. BOARD OF TRUSTEES OF TROY STATE UNIVERSITY

(a) Operations and Maintenance and Program Support...	22,392,902	36,322,283	58,715,185
(b) Auxiliary Enterprises		9,082,753	9,082,753
(c) Restricted Funds		4,470,000	4,470,000

SOURCE OF FUNDS:

(1) ASETF	22,392,902		
(2) Other Funds		49,875,036	
Total Board of Trustees of Troy State University	22,392,902	49,875,036	72,267,938

XIII. BOARD OF TRUSTEES OF ALABAMA INSTITUTE FOR DEAF AND BLIND

(a) Adult Programs	4,014,250	4,298,359	8,312,609
(b) Children and Youth Programs	11,803,596	3,844,542	15,648,138
(c) Industries for the Blind	2,117,894	16,709,111	18,827,005

SOURCE OF FUNDS:

(1) ASETF	17,935,740		
(2) Other Funds		24,852,012	
Total Board of Trustees of Alabama Institute for Deaf and Blind	17,935,740	24,852,012	42,787,752

In addition to the above appropriation to the Alabama Institute for Deaf and Blind, there is hereby appropriated \$1,500,000 to be conditioned upon the availability of funds in the ASETF, the recommendation of the Finance Director and the approval of the Governor.

SECTION 5. There is hereby appropriated from the Alabama Special Educational Trust Fund 100% of insurance premium tax receipts on non-profit corporations to the Special Mental Health Trust Fund.

SECTION 6. In addition to all other appropriations heretofore or hereafter made, there is hereby appropriated \$3,245,400 from the ASETF for the pro rata ASETF cost of the 27th pay day in fiscal year 1993-94. These funds are to be distributed by the Department of Finance to state agencies for the pro rata ASETF cost of the 27th pay day (not otherwise provided for) based upon agency certification and Department of Finance verification in a format as prescribed by the Director of Finance.

SECTION 7. There is hereby appropriated \$1,895,000 from the ASETF for the pro rata ASETF cost of any bonus pay raise given to state employees for the fiscal year 1993-94. This appropriation is conditioned upon the granting of a pay bonus to state employees by the Alabama Legislature. These funds are to be distributed by the Department of Finance to state agencies for the ASETF cost of such bonus based upon agency certification and Department of Finance verification in a format prescribed by the Director of Finance.

SECTION 8. No other funds provided herein for the public schools, including funds for Other Current Expense, transportation and salaries of the Minimum Program and Financial Assistance Program and/or for support personnel salaries, shall be used for the payment of any salaries of personnel not under the direct control, employment, and supervision of local boards of education. No funds provided herein for the two-year postsecondary schools under the auspices of the State Board of Education shall be used for the payment of any salaries of personnel not under the direct control, employment and supervision of said institutions.

SECTION 9. The Examiners of Public Accounts may audit off-campus programs and classes offered by public institutions of higher education to insure that tuition is collected from each student taking a class for that amount advertised in the college catalog or other publications. It is the intent of the Legislature that any credit hours produced without tuition being collected will not be funded from state appropriations.

SECTION 10. In addition to appropriations herein made, all gifts, grants, contributions, or entitlements, in excess of the amount carried in the bill, including grants by the Congress of the United States, municipalities or counties, to any department, division, board, bureau, commission, agency, institution, office or officer of the State of Alabama are hereby appropriated and, in the event the

same are recurring, are reappropriated to such department, division, board, bureau, commission, agency, institution, office or officer to be used only for the purpose or purposes for which the grant or contribution was or shall be made. Further, all state, county, municipal and educational entities are authorized to disburse such sums as deemed necessary by mutual agreement between said entities and the State of Alabama, Department of Examiners of Public Accounts to partially defray the cost of auditing services performed by said agency. All such sums are hereby appropriated and reappropriated if necessary to the Department of Examiners of Public Accounts for audit services, to be expended through the fund established by Section 41-5-24, Code of Alabama 1975.

SECTION 11. The State Superintendent of Education shall make requisitions on the State Comptroller in favor of the proper beneficiary in accordance with the law and rules and regulations governing the expenditure or disbursement of any and all funds appropriated to the State Department of Education and/or the State Board of Education in this act, whereupon the Comptroller shall issue his warrant therefor. Furthermore, the Executive Director of the Alabama Commission on Higher Education may submit to the Comptroller requests for timely payments of warrants to students receiving financial assistance to attend postsecondary educational institutions. All other appropriations in this act shall be paid after proper requisitions are made on the State Comptroller in the manner now provided by law.

SECTION 12. It is the intent of the Legislature that all lunchroom workers' salaries funded from the Other Current Expense line in the Minimum Program and Financial Assistance Program be fully funded by local school boards from these and any other local and/or state funds available and not just from funds generated by lunchroom sales.

SECTION 13. Nothing in this Act shall be construed to affect or repeal any law authorizing or permitting any college, school or other education or eleemosynary institution of the State to receive, collect or disburse any fees, tuitions, charges, sales, endowments, trusts or income therefrom, which are now or may hereafter be authorized to receive, collect or disburse. The receiving college, school or institution shall further maintain separate accounts for such receipts or shall maintain a system of accounting which will show a cash flow of such receipts received under the provision of this appropriation.

SECTION 14. The appropriations made herein to the departments, boards, offices, commissions, and agencies include the amount necessary and said departments, boards, offices, commissions, and agencies are hereby directed to make the transfer of funds to the

State Personnel Department in the amounts enumerated in the general appropriation act for the fiscal year ending September 30, 1994. All agencies enumerated in this act that receive services from other governmental agencies enumerated in the general appropriations act shall make full payment in a timely manner (as determined by the Department of Finance) for such services.

SECTION 15. All encumbered balances of a previous fiscal year appropriation other than the exclusions authorized by the Code of Alabama 1975, Section 41-4-93, shall lapse no later than September 30 of the fiscal year immediately following the fiscal year for which the appropriation was made and shall revert to the credit of the ASETF or earmarked fund from which the appropriation or appropriations were made.

SECTION 16. (a) Funds appropriated from the ASETF or earmarked state funds in this act to any state department, division, board, bureau, commission, agency, institution, or office (with the exception of local boards of education and postsecondary institutions of education) shall not be expended for the purchase or lease of automotive vehicles. A state agency funded from the ASETF or earmarked state funds in this act may request to purchase or lease automotive vehicles for emergency purposes. The request shall be made in writing to the Director of Finance, the Chairman of the House Committee on Ways and Means, and the Chairman of the Senate Committee on Finance and Taxation. The request shall explain the nature of the automotive purchase or lease and the emergency need for the vehicle. The request shall be approved unanimously by the Director of Finance, the Chairman of the House Committee on Ways and Means, and the Chairman of the Senate Committee on Finance and Taxation prior to the purchase or lease of any automotive vehicle.

(b) No funds appropriated in this act shall be expended for the purpose of purchasing optional equipment on state motor vehicles that consist of stereo equipment, power seats, leather upholstery, premium wheel covers, deluxe exterior trim, or sun roofs.

(c) On the last day of this fiscal year, each state school, college, department, agency, or like institution receiving funds under this act shall file a report with the Legislature detailing purchases of new motor vehicles during the fiscal year, including complete information on the date of purchase, make and model of the vehicle, standard equipment on the vehicle, optional equipment on the vehicle, and a complete inventory of all state motor vehicles assigned to, being used by, or being leased by the state school, college, department, agency, or like institution receiving funds under this act, and shall also submit an inventory report of all motor vehicles that it operates that do not have state vehicle identification license tags.

SECTION 17. If any section, paragraph, sentence, clause, provision or portion of this act or all or any portion of any appropriations herein made be held unconstitutional or invalid, it shall not affect any other section, paragraph, sentence, clause, provision or portion of this act or any other appropriation or appropriations or portion thereof hereby made not in and of itself unconstitutional or invalid.

SECTION 18. All laws and parts of laws, general, special, private or local in conflict with or inconsistent with the provisions of this act be and the same are hereby expressly repealed.

SECTION 19. This act shall become effective on October 1, 1993.

Approved May 27, 1993

Time: 10:41 A.M.

Act No. 93-773

H. 266 – Rep. Harper

AN ACT

To make an appropriation for the support and maintenance of Tuskegee University for the fiscal year ending September 30, 1994, and to require an operations plan prior to release of any funds.

Be It Enacted by the Legislature of Alabama:

Section 1. There is hereby appropriated for the fiscal year ending September 30, 1994, the sum of three million nine hundred thousand dollars (\$3,900,000) from the Alabama Special Educational Trust Fund to Tuskegee University.

Section 2. The Department of Examiners of Public Accounts is hereby authorized and empowered to audit the records of the said institution to the same extent, degree, and scope as its audits of public educational institutions, and said institution shall submit to the Legislature each year before any subsequent appropriation requests may be considered by the Legislature, a full accounting of its receipts, disbursements, assets, liabilities, and other resources as of the date of the close of its immediately preceding academic year.

Section 3 Prior to the release of any funds appropriated under this bill for fiscal year 1993-94, an operations plan for fiscal year 1993-94 must be forwarded to the Director of Finance. It is the intent to release fiscal year 1993-94 funds following receipt of this report.

Section 4. This act shall become effective October 1, 1993.

Approved May 27, 1993

Time: 3:00 P.M.

Act No. 93-774

H. 235 – Rep. Harper

AN ACT

To make an appropriation from the Alabama Special Educational Trust Fund to the Children's and Women's Hospital in Mobile, Alabama, for the fiscal year ending September 30, 1994 and to require an operations plan and audited financial statement prior to release of any funds.

Be It Enacted by the Legislature of Alabama:

Section 1. For the fiscal year ending September 30, 1994, there is hereby appropriated to the Children's and Women's Hospital in Mobile, Alabama for the support and maintenance of said program from the Alabama Special Educational Trust Fund, the sum of four hundred sixteen thousand three hundred fifteen dollars (\$416,315).

Section 2. Prior to release of any funds appropriated under this bill for fiscal year ending September 30, 1994, an operations plan for fiscal year 1993-94 and an audited financial statement for all operations during fiscal year 1991-92 must be forwarded to the Director of Finance. It is the intent to release fiscal year 1993-94 funds following receipt of these reports.

Section 3. This act shall become effective on October 1, 1993.

Approved May 27, 1993

Time: 3:01 P.M.

Act No. 93-775

H. 255 – Rep. Harper

AN ACT

To make an appropriation from the State General Fund to the Tri-Rivers Waterway Development Authority for the fiscal year ending September 30, 1994, and to require an operations plan and an audited financial statement prior to release of any funds.

Be It Enacted by the Legislature of Alabama:

Section 1. For the fiscal year ending September 30, 1994, there is hereby appropriated to the Tri-Rivers Waterway Development Authority from the State General Fund the sum of Forty-five thousand nine hundred eighty dollars (\$45,980).

Section 2. Prior to release of any funds appropriated under this bill for fiscal year 1993-94, an operations plan for fiscal year 1993-94 and an audited financial statement for all operations during fiscal year 1991-92 must be forwarded to the Director of Finance. It is the intent to release fiscal year 1993-94 funds following receipt of these reports.

Section 3. This Act shall become effective October 1, 1993.

Approved May 27, 1993

Time: 3:02 P.M.

Act No. 93-776

H. 977 – Reps. Harper, Zoghby, Gaston

AN ACT

To make a supplemental appropriation of \$1,000,000 to the Mobile County Board of Education, \$150,000 to the Clay County Board of Education for the Clay County High School, \$500,000 to the Monroe County Board of Education, and \$150,000 to the Department of Postsecondary Education for the Summer Prison Education Program at the Donaldson Correctional Facility for the fiscal year ending September 30, 1993. To also provide for supplemental and conditional appropriations from the Alabama Special Educational Trust Fund for the support, maintenance, and development of public education in Alabama for the fiscal year ending September 30, 1993.

Be It Enacted by the Legislature of Alabama:

Section 1. In addition to all appropriations heretofore or hereafter made, there is hereby appropriated \$1,000,000 to the Mobile County Board of Education from the Alabama Special Educational Trust Fund for the fiscal year ending September 30, 1993 for a burned-out school.

Section 2. In addition to all appropriations heretofore or hereafter made, there is hereby appropriated \$500,000 to the Monroe County Board of Education from the Alabama Special Educational Trust Fund for the fiscal year ending September 30, 1993 for Excel School.

Section 3. In addition to all appropriations heretofore or hereafter made, there is hereby appropriated \$150,000 from the Alabama Special Educational Trust Fund to the Clay County

Board of Education for the Clay County High School for the fiscal year ending September 30, 1993.

Section 4. In addition to all appropriations heretofore or hereafter made there is also hereby appropriated \$150,000 to the Department of Postsecondary Education for the summer prison education program at the Donaldson Correctional Facility for the fiscal year ending September 30, 1993.

Section 5. There is hereby appropriated the sum of \$37,500,000 from the Alabama Special Educational Trust Fund for the fiscal year ending September 30, 1993. The funds shall be in addition to amounts specified in Act No. 92-620 of the 1992 Regular Session and shall be in the amounts and for the purposes hereinafter specified.

Total

1. EDUCATION, STATE
BOARD OF MINIMUM
PROGRAM:

(a) Minimum Program \$18,010,073

SOURCE OF FUNDS:

(1) ASETF \$18,010,073

The appropriation hereinabove for the fiscal year 1992-93 is based upon 25,128.31 teacher units. For "Other Current Expense," an amount not to exceed \$716.72 for each earned teacher unit but the total shall not exceed the sum of \$18,010,073. It is further provided in the event there are more than 25,128.31 earned teacher units for the fiscal year 1992-93, then such amount necessary to pay "Other Current Expense" for these excess teacher units is appropriated.

2. EDUCATION, STATE BOARD OF - LOCAL
BOARDS:

(a) State Board of Education, Local
Boards Program..... \$6,989,927

SOURCE OF FUNDS:

(1) ASETF \$6,989,927

To be distributed by the State Board of Education for:

(1) Kindergarten Teacher
Units..... \$2,245,355

The above appropriation is for 3,132.82 teacher units. For "Other Current Expense," an amount not to exceed \$716.72 for

each earned teacher unit but the total shall not exceed the sum of \$2,245,355. In the event that more than 3,132.82 teacher units are earned for the fiscal year 1992-93, then such amount necessary to pay these excess units is appropriated.

- (2) Continuation of Teacher Units to reduce pupil-teacher ratio in grades 3-6 \$310,175

The above appropriation is for 432.77 teacher units. For "Other Current Expense," an amount not to exceed \$716.72 for each earned teacher unit but the total shall not exceed the sum of \$310,175.

- (3) Supportive Teacher
Units..... \$1,347,598

The above appropriation is for 1,880.23 teacher units. For "Other Current Expense," an amount not to exceed \$716.72 for each earned teacher unit but the total shall not exceed the sum of \$1,347,598.

- (4) Special Education Teacher
Units..... \$2,651,864

The above appropriation is for 3,700.00 teacher units. For "Other Current Expense," an amount not to exceed \$716.72 for each earned teacher unit but the total shall not exceed the sum of \$2,651,864.

- (5) Driver Education Teacher
Units..... \$207,849

The above appropriation is for 290.00 teacher units. For "Other Current Expense," an amount not to exceed \$716.72 for each earned teacher unit but the total shall not exceed the sum of \$207,849.

- (6) Guidance Counselor Teacher
Units..... \$227,086

The above appropriation is for 316.84 teacher units. For "Other Current Expense," an amount not to exceed \$716.72 for each earned teacher unit but the total shall not exceed the sum of \$227,086.

In addition to the above amounts appropriated to the State Board of Education-Minimum Program and to the State Board of Education-Local Boards, there is also hereby appropriated the sum of up to \$15,000,000 from the Alabama Special Educational Trust Fund for Other Current Expense, to be conditioned upon the Alabama Special Educational Trust Fund maintaining a projected ending balance in excess of \$50,000,000 after the release of such

funds or any portion thereof for the fiscal year ending September 30, 1993, the recommendation of the Finance Director and the approval of the Governor. No conditional appropriations may be released under this section unless funds are also released to Junior, Technical, Community Colleges, Colleges and Universities and schools as provided in this act on a proportional basis.

**3. EDUCATION, STATE
BOARD-JUNIOR, TECHNICAL
AND COMMUNITY COLLEGES:**

(a) Junior College System.....	1,081,043
(b) Technical College System	831,112
(c) Prison Education	107,222

SOURCE OF FUNDS:

(1) ASETF	2,019,377
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**4. COLLEGES, UNIVERSITIES
AND SCHOOLS:**

I. Board of Trustees of the University of Alabama System: University of Alabama	1,202,467
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University of Alabama at Birmingham.....	1,912,843
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University of Alabama in Huntsville	395,376
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SOURCE OF FUNDS:

(1) ASETF	3,510,686
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II. Board of Trustees of Alabama A&M University	277,838
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SOURCE OF FUNDS:

(1) ASETF	277,838
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III. Board of Trustees of Alabama State University	279,789
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SOURCE OF FUNDS:

(1) ASETF	279,789
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IV. State Board of Education- Athens State College	65,395
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SOURCE OF FUNDS:

(1) ASETF	65,395
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V. Board of Trustees of Auburn University System: Auburn University	1,866,461
Auburn University at Montgomery	191,906
SOURCE OF FUNDS:	
(1) ASETF	2,058,367
VI. Board of Trustees of Jacksonville State University	290,113
SOURCE OF FUNDS:	
(1) ASETF	290,113
VII. Board of Trustees of Livingston University	90,617
SOURCE OF FUNDS:	
(1) ASETF	90,617
VIII. Board of Trustees of University of Montevallo	350,763
SOURCE OF FUNDS:	
(1) ASETF	350,763
IX. Board of Trustees of University of North Alabama	214,794
SOURCE OF FUNDS:	
(1) ASETF	214,794
X. Board of Trustees of University of South Alabama	840,601
SOURCE OF FUNDS:	
(1) ASETF	840,601
XI. Board of Trustees of Troy State University System Troy State University	218,527
Troy State University at Dothan	39,158
Troy State University in Montgomery	43,975
SOURCE OF FUNDS:	
(1) ASETF	301,660

5. HIGHER EDUCATION, ALABAMA COMMISSION ON:

Eminent Scholars Program	1,200,000
EPSCoR	1,000,000
SOURCE OF FUNDS:	

(1) ASETF	2,200,000
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In addition to the above appropriations to the State Board of Education - Junior, Technical and Community Colleges and to the Colleges, Universities and Schools, there is also hereby appropriated the sum of \$7,500,000 from the Alabama Special Educational Trust Fund to the following, to be conditioned upon the Alabama Special Educational Trust Fund maintaining a projected ending balance in excess of \$50,000,000 after the release of such funds or any portion thereof for the fiscal year ending September 30, 1993, the recommendation of the Finance Director and the approval of the Governor. No conditional appropriations may be released under this section unless funds are also released to the State Board of Education for the Minimum Program and Local Boards as provided in this act on a proportional basis.

University of Alabama System	
The University of Alabama	904,111
University of Alabama at	
Birmingham	1,438,227
University of Alabama in	
Huntsville	297,275
Alabama A&M University	208,901
Alabama State University	210,368
Athens State College	49,169
Auburn University System	
Auburn University	1,007,588
Auburn University at Montgomery ..	144,290
Agricultural Experiment Station	184,298
Cooperative Extension Service	211,468
Jacksonville State University	218,130
Livingston University	68,133
University of Montevallo	113,356
University of North Alabama	161,499

University of South Alabama	538,046
Troy State University System	
Troy State University.....	164,306
Troy State University at Dothan.....	29,442
Troy State University in Montgomery.....	<u>33,064</u>
Total Universities.....	5,981,671
Postsecondary Education Department	
Junior College System.....	812,814
Technical College System	624,897
Prison Education	<u>80,618</u>
Total Postsecondary Education.....	1,518,329
Total All Institutions	7,500,000

Section 6. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved May 27, 1993

Time: 3:03 P.M.

Act No. 93-777

H. 244 – Rep. Harper

AN ACT

To make an appropriation from the State General Fund to the Alabama Travel Council for the fiscal year ending September 30, 1994, and to require an operations plan and an audited financial statement prior to release of any funds.

Be It Enacted by the Legislature of Alabama:

Section 1. For the fiscal year ending September 30, 1994, there is hereby appropriated to the Alabama Travel Council from the State General Fund the sum of \$100,000.

Section 2. Prior to release of any funds appropriated under this bill for fiscal year 1993-94, an operations plan for fiscal year 1993-94, and an audited financial statement for all operations during fiscal year 1991-92 must be forwarded to the Director of Finance. It is the intent to release fiscal year 1993-94 funds following receipt of these reports.

Section 3. This Act shall become effective October 1, 1993.

Approved May 27, 1993

Time: 3:04 P.M.

Act No. 93-778

H. 237 – Rep. Harper

AN ACT

To make an appropriation from the State General Fund to the Child Advocacy Centers and to the Alabama Network of Children's Advocacy Centers, Inc. for the fiscal year ending September 30, 1994, and to require operations plans and audited financial statements prior to release of any funds.

Be It Enacted by the Legislature of Alabama:

Section 1. For the fiscal year ending September 30, 1994, there is hereby appropriated the total sum of \$732,225 to the Child Advocacy Centers and to the Alabama Network of Children's Advocacy Centers, Inc. from the State General Fund in the amount for each as given below. Said appropriation is to be used for the support and maintenance of said centers as follows:

1. Prescott House-Birmingham.....48,815
2. National Children's Advocacy Center,
Inc.-Huntsville48,815
3. The Child Advocacy Center, Inc.-Mobile.48,815
4. Montgomery Child Protection and
Advocacy Center, Inc.....48,815
5. Tuscaloosa Children's Center, Inc48,815
6. Bessemer Cut-off Advocacy Center, Inc48,815
7. Blount County Children's Center, Inc.....48,815
8. Gadsden-Etowah County Children's
Advocacy Center, Inc48,815
9. Care House-Baldwin County48,815
10. Calhoun-Cleburne Children's Center,
Inc.....48,815
11. Northwest Alabama Children's Center48,815
12. DeKalb County Children's Advocacy
Center, Inc48,815
13. St. Claire County Children's Advocacy
Center.....48,815

14. Alabama Network of Children's Advocacy
Centers, Inc.....97,630

Of the above appropriation to the Alabama Network of Children's Advocacy Centers, Inc., the sum of \$48,815 shall be set aside and used only for the Houston-Henry County Children's Advocacy Center if said center becomes operational in fiscal year 1993-94 and meets all of the standards of a Children's Advocacy Center under Alabama Act 92-558 and is a full member in good standing with the Alabama Network of Children's Advocacy Centers, Inc.

Section 2. Thirteen centers receiving funds under this act have been certified by the Alabama Network of Children's Advocacy Center, Inc. as having met, by January 31, 1993, all of the standards of a children's advocacy center under Alabama Act 92-558 and are full members in good standing with that organization.

Section 3. Prior to release of any funds appropriated under this bill for fiscal year 1993-94, operations plans for fiscal year 1993-94 and audited financial statements for all operations during fiscal year 1991-92 must be forwarded to the Director of Finance. It is the intent to release fiscal year 1993-94 funds following receipt of these reports.

Section 4. This act shall become effective October 1, 1993.

Approved May 27, 1993

Time: 3:05 P.M.

Act No. 93-779

H. 231 – Rep. Harper

AN ACT

To make an appropriation from the Alabama Special Educational Trust Fund to Constitution Hall Village at Huntsville, Alabama for the fiscal year ending September 30, 1994, and to require an operations plan and audited financial statement prior to release of any funds.

Be It Enacted by the Legislature of Alabama:

Section 1. For the fiscal year ending September 30, 1994, there is hereby appropriated to Constitution Hall Village at Huntsville, Alabama, the sum of \$90,503 from the Alabama Special Educational Trust Fund, to be used for support and maintenance.

Section 2. In addition, for the fiscal year ending September 30, 1994, there is hereby appropriated to Constitution Hall Village at Huntsville, Alabama, the sum of \$100,000 from the Alabama Special Educational Trust Fund, to be used for capital outlay.

Section 3. Prior to release of any funds appropriated by this bill for fiscal year 1993-94, an operations plan for fiscal year 1993-94 and an audited financial statement for all operations during fiscal year 1991-92 must be forwarded to the Director of Finance. It is the intent to release fiscal year 1993-94 funds following receipt of these reports.

Section 4. This act shall become effective on October 1, 1993.

Approved May 27, 1993

Time: 3:06 P.M.

Act No. 93-780

H. 232 – Rep. Harper

AN ACT

To make an appropriation from the State General Fund to the Coosa-Alabama River Improvement Association, Inc. for the fiscal year ending September 30, 1994, and to require an operations plan and an audited financial statement prior to release of any funds.

Be It Enacted by the Legislature of Alabama:

Section 1. For the fiscal year ending September 30, 1994, there is hereby appropriated to the Coosa-Alabama River Improvement Association, Inc. from the State General Fund the sum of \$78,970.

Section 2. Prior to release of any funds appropriated under this bill for fiscal year 1993-94, an operations plan for fiscal year 1993-94 and an audited financial statement for all operations during fiscal year 1991-92 must be forwarded to the Director of Finance. It is the intent to release fiscal year 1993-94 funds following receipt of these reports.

Section 3. This Act shall become effective October 1, 1993.

Approved May 27, 1993

Time: 3:07 P.M.

Act No. 93-781

H. 247 – Rep. Harper

AN ACT

To make an appropriation from the Alabama Special Educational Trust Fund to the Alabama League for the Advancement of Education for the fiscal year ending September 30, 1994, and to require an operations plan and audited financial statement prior to release of any funds.

Be It Enacted by the Legislature of Alabama:

Section 1. There is hereby appropriated to the Alabama League for the Advancement of Education for the fiscal year ending September 30, 1994, the sum of \$129,081 out of the funds in the Alabama Special Educational Trust Fund.

Section 2. Prior to release of any funds appropriated under this bill for fiscal year 1993-94, an operations plan for fiscal year 1993-94 and an audited financial statement for all operations during fiscal year 1991-92 must be forwarded to the Director of Finance. It is the intent to release fiscal year 1993-94 funds following receipt of these reports.

Section 3. This act shall become effective on October 1, 1993.

Approved May 27, 1993

Time: 3:08 P.M.

Act No. 93-782

H. 242 – Rep. Harper

AN ACT

To make an appropriation from the Alabama Special Educational Trust Fund to the Bevill Centers in Gadsden, Eufaula, Brewton, Muscle Shoals, Birmingham, and the AIDT Centers located in Huntsville, Montgomery, and Mobile, Alabama for the fiscal year ending September 30, 1994, and to require an operations plan and audited financial statement prior to release of any funds.

Be It Enacted by the Legislature of Alabama:

Section 1. There is hereby appropriated for the fiscal year ending September 30, 1994, the sum of \$300,000, out of the funds in the Alabama Special Educational Trust Fund, to the Bevill Center for Advanced Manufacturing Technology in Gadsden, Alabama, to be used for support and maintenance of said program. In addition, there is also hereby appropriated for fiscal year 1993-94 to the Bevill Advanced Electronics Center at Sparks Technical College the sum of \$350,000 from the Alabama Special Educational Trust Fund for the planning, construction, capital outlay, support and maintenance of said program. In addition, there is also hereby appropriated for the fiscal year 1993-94 to the Bevill Center in Brewton, Alabama, the sum of \$300,000 from the Alabama Special Educational Trust Fund to be used for support and maintenance of said program. In addition, there is also hereby appropriated for the fiscal year 1993-94 to the Bevill Center in Muscle Shoals, Alabama, the sum of \$300,000 from the Alabama

Special Educational Trust Fund to be used for support and maintenance of said program. In addition, there is also hereby appropriated for the fiscal year 1993-94 to the Bevill Center for Bio-Technology in Birmingham, Alabama (Jefferson State Junior College) the sum of \$300,000 from the Alabama Special Educational Trust Fund to be used for planning and coordination of joint initiatives to secure federal funds for entities covered herein. In addition, there is also hereby appropriated for the fiscal year ending September 30, 1994, the sum of \$500, out of the funds in the Alabama Special Educational Trust Fund, to the AIDT Center in Huntsville, Alabama, known as Alabama Center for Advanced Technology Transfer (ACATT), a division of Post Secondary Education, to be used for planning and coordination of joint initiatives to secure federal funds for entities covered herein. In addition, there is also hereby appropriated for the fiscal year ending September 30, 1994, the sum of \$500, out of the funds in the Alabama Special Educational Trust Fund, to the AIDT Center in Montgomery, Alabama, known as the Techna Center, a division of Post Secondary Education, to be used for planning and coordination of joint initiatives to secure federal funds for entities covered herein. In addition, there is also hereby appropriated for the fiscal year ending September 30, 1994, the sum of \$500, out of the funds in the Alabama Special Educational Trust Fund, to the AIDT Center in Mobile, a division of Post Secondary Education, to be used for planning and coordination of joint initiatives to secure federal funds for entities covered herein.

Section 2. Prior to release of any funds appropriated under this bill for fiscal year 1993-94, an operations plan for fiscal year 1993-94 and an audited financial statement for all operations during fiscal year 1991-92 must be forwarded to the Director of Finance. It is the intent to release fiscal year 1993-94 funds following receipt of these reports.

Section 3. This act shall become effective on October 1, 1993.

Approved May 27, 1993

Time: 3:09 P.M.

Act No. 93-783

H. 273 – Rep. Harper

AN ACT

To make an appropriation for the support and maintenance of the Special Schools for Special Education for the fiscal year ending September 30, 1994, and to require an operations plan and audited financial statement prior to release of any funds.

Be It Enacted by the Legislature of Alabama:

Section 1. There is hereby appropriated for the fiscal year ending September 30, 1994, the sum of \$2,201,604 out of the funds in the Alabama Special Educational Trust Fund to be used for the support and maintenance of the Special Schools for Special Education and to be distributed by the State Board of Education as follows:

(a) Butler Activity and Training Center for the Mentally Retarded in Greenville	27,151
(b) Hope Haven School in Colbert County	36,201
(c) Montgomery Institute of Neurological Development	31,676
(d) Marion Bankhead Grant Center	61,000
(e) Houston County Board of Education for the Vaughn-Blumberg Center for the Developmentally Disabled	54,302
(f) Alice Pigman School	113,129
(g) Achievement Center, Opelika	10,000
(h) Merle Wallace Purvis Center	75,000
(i) McGraw Activity Center	110,000
(j) Dallas County Day Care and Training Center	44,302
(k) Brierfield Learning Center, Bibb County	13,200
(l) Calhoun County Community - "EDUCATION PAR EXCELLENCE"	90,503
(m) North Talladega County Association for Retarded Citizens, Inc.	27,151
(n) South Talladega County Association for Retarded Citizens, Inc.	27,151
(o) Epic School, Birmingham	35,200
(p) ECHO FOUNDATION	22,626
(q) Vivian B. Adams School	257,595
(r) McInnis School of Montgomery	397,309
(s) Twenty First Century Youth Leadership Training Project	27,600
(t) Alan Cott School	93,671
(u) Children's Hands-On Museum in Tuscaloosa	140,503
(v) Madison County Opportunities Center	45,252

(w) Hope Project, formerly the Madison Park Hope Center	18,100
(x) Dee Day School - Cherokee County	27,151
(y) McKinney Learning Center	27,151
(z) Jackson-DeKalb County Special School for the Retarded at Northeast Junior College	45,252
(aa) Valley Haven School	57,581
(bb) Russellville City School for Multi- Handicapped Children	36,201
(cc) North Alabama Center for Educational Excellence, formerly North Alabama Education Opportunities Center	4,525
(dd) Randolph County Learning Center	21,721
(ee) Quest for Excellence	33,800
(ff) Louise Smith Development Center	20,000
(gg) Jackson County ARC Achievement Center	50,000
(hh) Mobile ARC	87,000
(ii) Lee Scan - of Lee County.....	7,600
(jj) The Governor's School - Samford University.....	25,000

Section 2. Prior to release of any funds appropriated under this bill for fiscal year 1993-94, an operations plan for fiscal year 1993-94 and an audited financial statement for all operations during fiscal year 1991-92 must be forwarded to the Director of Finance. It is the intent to release fiscal year 1993-94 funds following receipt of these reports

Section 3. Organizations and programs receiving funds under this act which are current providers of services under contract with the Alabama Department of Mental Health and Mental Retardation, Division of Mental Retardation, are required to coordinate activities with the Department in order to maximize the receipt of federal Medicaid funds by utilizing state funds in this act as matching funds whenever possible.

Section 4. The provisions of this act are severable. If any part of this act is declared invalid or unconstitutional, such declaration shall not affect the part that remains.

Section 5. This act shall become effective on October 1, 1993.

Approved May 27, 1993

Time: 3:10 P.M.

Act No. 93-784

H. 296 – Rep. Harper

AN ACT

To make an appropriation from the Alabama Special Educational Trust Fund to the Alabama Theatre, Alabama Landmarks, Inc. for the fiscal year ending September 30, 1994, and to require an operations plan and audited financial statement prior to release of any funds.

Be It Enacted by the Legislature of Alabama:

Section 1. There is hereby appropriated for the fiscal year ending September 30, 1994, the sum of \$100,000 out of the funds in the Alabama Special Educational Trust Fund, to the Alabama Theatre, Alabama Landmarks, Inc.

Section 2. Prior to release of any funds appropriated under this bill for fiscal year 1993-94, an operations plan for fiscal year 1993-94 and an audited financial statement for all operations during fiscal year 1991-92 must be forwarded to the Director of Finance. It is the intent to release fiscal year 1993-94 funds following receipt of these reports.

Section 3. This act shall become effective on October 1, 1993.

Approved May 27, 1993

Time: 3:11 P.M.

Act No. 93-785

H. 240 – Rep. Harper

AN ACT

To make an appropriation from the State General Fund to the Commission on Aging for the Care Assurance System for the Aging and Homebound and to the City of Kinston for services to the aged for the fiscal year ending September 30, 1994, and to require an operations plan and an audited financial statement prior to release of any funds.

Be It Enacted by the Legislature of Alabama:

Section 1. For the fiscal year ending September 30, 1994, there is hereby appropriated to the Commission on Aging for the Care Assurance System for the Aging and Homebound from the State General Fund the sum of \$50,000.

Section 2. In addition to the appropriation in Section 1, there is hereby appropriated the sum of \$25,000 to the Commission on Aging for the City of Kinston for services for the aged.

Section 3. Prior to release of any funds appropriated under this bill for fiscal year 1993-94, an operations plan for fiscal year 1993-94 and an audited financial statement for all operations during fiscal year 1991-92 must be forwarded to the Director of Finance. It is the intent to release fiscal year 1993-94 funds following receipt of these reports.

Section 4. This act shall become effective October 1, 1993.

Approved May 27, 1993

Time: 3:12 P.M.

Act No. 93-786

H. 226 – Rep. Harper

AN ACT

To make an appropriation from the Alabama Special Educational Trust Fund to the Exploreum Museum of Discovery and the Exploreum Museum of Discovery - Omnimax Project for the fiscal year ending September 30, 1994, and to require an operations plan and audited financial statement prior to release of any funds.

Be It Enacted by the Legislature of Alabama:

Section 1. For the fiscal year ending September 30, 1994, there is hereby appropriated to the Exploreum Museum of Discovery, the sum of \$18,101 from the Alabama Special Educational Trust Fund, to be used for support and maintenance.

Section 2. In addition, for the fiscal year ending September 30, 1994 there is hereby appropriated to the Exploreum Museum of Discovery - Omnimax Project, the sum of \$2,000,000 from the Alabama Special Educational Trust Fund to be conditioned on the release of \$2,400,000 each from the County and City of Mobile for the Omnimax Project.

Section 3. Prior to release of any funds appropriated under this bill for fiscal year 1993-94, an operations plan for fiscal year 1993-94 and an audited financial statement for all operations during fiscal year 1991-92 must be forwarded to the Director of Finance. It is the intent to release fiscal year 1993-94 funds following receipt of these reports.

Section 4. This act shall become effective on October 1, 1993.

Approved May 27, 1993

Time: 3:13 P.M.

Act No. 93-787

H. 257 – Rep. Harper

AN ACT

To transfer \$300,000 from the Department of Corrections to the Sentencing Institute for the fiscal year ending September 30, 1994.

Be It Enacted by the Legislature of Alabama:

Section 1. For the fiscal year ending September 30, 1994, the amount of \$300,000 shall be transferred from any funds appropriated to the Department of Corrections to the Sentencing Institute to be expended for implementation of the Community Punishment and Corrections Act of 1991 and for related services to provide for a reduction in the prison population.

Section 2. This act shall become effective on October 1, 1993.

Approved May 27, 1993

Time: 3:14 P.M.

Act No. 93-788

H. 277 – Rep. Harper

AN ACT

To make an appropriation to the Department of Education for the fiscal year ending September 30, 1994.

Be It Enacted by the Legislature of Alabama:

Section 1. There is hereby appropriated to the Department of Education for the fiscal year ending September 30, 1994, the following amounts from the Alabama Special Educational Trust Fund (ASETF) and Federal and Local Funds:

EDUCATION, DEPARTMENT
OF:

(a) Direct Client Services for
the Handicapped Program.....

82,893,823

The proposed spending plan
for the ASETF moneys in-
cluded in the above program
is as follows:

Homebound.....2,956,361

Hemophilia995,535

Children's Rehabilitation
Services..... 6,090,331

	ASETF	Federal and Local Funds	Total
Of the above appropriation to the Children's Rehabilitation Services, the agency will pay to each hospital the standard per diem paid by the state Medicaid agency for services relating to scoliosis and spina bifida medical care.			

Rehabilitation
Services.....8,759,799

Of the above appropriation to
Rehabilitation Services,
\$250,000 shall be used for
the Deaf Support Service.

SOURCE OF FUNDS:

(1) ASETF	18,802,026		
(2) Federal and Local Funds...		64,091,797	
Total Direct Client Services for the Handicapped Program	18,802,026	64,091,797	82,893,823
(b) Disability Determination for Social Security Program ..			23,144,086

SOURCE OF FUNDS:

(1) Federal and Local Funds....		23,144,086	
Total Disability Determina- tion for Social Security Program		23,144,086	23,144,086

**TOTAL DEPARTMENT OF
EDUCATION:**

SOURCE OF FUNDS:

(1) ASETF	18,802,026		
(2) Federal and Local Funds....		87,235,883	
TOTAL DEPARTMENT OF EDUCATION	18,802,026	87,235,883	106,037,909

Section 2. The above appropriation is made for educational purposes which shall include but shall not be limited to the following: (a) Providing medical, paramedical, counseling and educational services (instruction in the training of disabled persons) to crippled children and their families. The Legislature recognized the educational nature of such services in Section 16-38-7 of the Code of Alabama 1975; (b) Providing vocational rehabilitation through a state-federal initiative for the purpose of teaching independent living skills in order to return the clients to the workforce; and (c) Providing educational services to severely disabled clients which includes academic tutoring, teaching of independent living skills and providing equipment (wheelchairs and ramps) to allow school-age children to attend school.

Section 3. The Department of Education is hereby authorized to make a transfer to the State Personnel Department in the amount authorized in the General Appropriation Bill for fiscal year 1993-94.

Section 4. The provisions of this act are severable. If any part of this act is declared invalid or unconstitutional, such declaration shall not affect the part which remains.

Section 5. This act shall become effective on October 1, 1993.

Approved May 27, 1993

Time: 3:15 P.M.

Act No. 93-789

H. 371 – Rep. Harper

AN ACT

To make appropriations to the following public entities in Alabama for general public educational purposes for the fiscal year ending September 30, 1994. Said educational purposes shall include but not be limited to capital improvements, library acquisitions, equipment purchases, transportation, renovations and operations and maintenance.

Be It Enacted by the Legislature of Alabama:

Section 1. There is hereby appropriated the sum of \$11,621,212 from the Alabama Special Educational Trust Fund to the following public entities for general public educational purposes for the fiscal year ending September 30, 1994:

A. H. Parker High School	3,000
A. L. Johnson High School	1,000
Abbeville High School	5,000
Academy for Academics and Arts	500
Academy for Science and Foreign Language - PTA	2,000
Adair Junior High School	1,000
Adams Middle School	2,225
Adamsburg Junior High School	1,000
Adamsville City Library	1,000
Adamsville Elementary School	2,000
Adamsville Elementary School	1,781
Adelia Williams Elementary School	4,000
Ariel Holloway Elementary School	3,000
Akron Community School East	1,250
Akron Community School West	800
Alabama A & M University	11,000
Alabama A & M University	1,000
Alabama Avenue Middle School	1,000
Alabama Aviation and Technical College	10,000
Alabama Music Hall of Fame Research Library	10,000
Alabama State University - For the ASU- Miles College Consortium	5,000
Alba High School	10,000
Alba Elementary School	10,000
Alberta Elementary School	5,000
Alberta Elementary School	1,000
Albertville City Library	1,200
Albertville High School	1,000
Albertville High School Library	1,200
Alexander City Board of Education	15,000
Alexander City School System	10,000

Alliance Elementary School	2,500
Alliance Elementary School	834
Altoona, City of	20,000
Anniston High School	12,500
Anniston Middle School	12,500
Anniston School Board	10,000
Arab School System	7,000
Arcadia Elementary School	5,000
Arthur Elementary School	1,000
Athens City School System	7,000
Athens-Limestone Public Library	1,000
Athens State College	1,000
Attalla City Library	10,000
Auburn City Board of Education	10,000
Auburn City Library	2,000
Auburn High School	2,000
Auburn Junior High School	2,000
Auburn University	32,000
Augusta Evans Special School	1,800
Autauga County Board of Education	20,000
Ayers State Technical College	7,500
Azalea Middle School	1,000
B. C. Rain High School	4,000
Bagley Junior High School	1,928
Baldwin County Board of Education	40,000
Baldwin County Board of Education	20,000
Baldwin County Commission	10,000
Bankhead Middle School	1,000
Belgreen High School	2,857
Bell School	2,000
Belsaw - Mt. Vernon School	2,225
Berry Elementary School	2,154

Berry High School	1,544
Berry High School	4,600
Bessemer City Board of Education	9,000
Bessemer City Schools	20,000
Bessie C. Fonville Elementary School	3,000
Bessie C. Fonville Elementary School - For Playground Equipment	5,000
Bevill State Community College	1,175
Bevill State Community College	10,000
Bibb County Area Vocational School	1,000
Bibb County Board of Education	1,000
Bibb County High School	1,000
Bibb County Junior High School	1,000
Big Spring Lake Elementary School	1,000
Birmingham Board of Education	20,000
The above appropriation shall include the following allocations:	
Arthur Elementary School	3,000
Huffman Middle School.....	3,000
Going Elementary School.....	3,000
Huffman High School	7,000
Birmingham City Board of Education	50,000
Birmingham City Board of Education	85,000
Birmingham City Board of Education - Birmingham Community Education Program	20,000
Birmingham City Board of Education - Jackson Olin Community School	20,000
Birmingham City Board of Education - Riley Elementary School	2,000
Birmingham - Finance Department - For Educational Purposes, City of	20,000
Blossomwood Elementary School	2,400
Blount High School	2,500

Bluff Park Elementary School	2,000
Boaz Elementary School	1,000
Boaz High School	1,000
Boaz Public Library	1,200
Booker T. Washington Middle School	1,250
Bottenfield Junior High School	2,768
Bragg Junior High School	1,683
Brantley High School	5,000
Brazier Elementary School	2,500
Brent Elementary School	1,000
Brewton Elementary School	2,000
Brookville Elementary School	1,342
Brookwood Forest Elementary School	2,000
Buck Horn High School Library	1,000
Bullock County Board of Education	10,000
Bullock County Board of Education	42,500
Burroughs Elementary School	10,000
Butler County Public Library	10,000
Cahaba Heights Community Elementary School	2,000
Calcedeaver School	2,225
Calhoun Community College	10,000
Calhoun Community College	1,000
Calhoun County Board of Education	5,000
Calhoun County School System	15,000
Calloway Elementary School	2,000
Capitol Heights Junior High School	1,500
Carbon Hill High School	2,500
Carbon Hill Junior High School	2,500
Carlisle Elementary School Library	200
Carver High School - Birmingham City Board of Education	3,000

Cary Woods School	2,000
Castlen Elementary School	10,000
Catoma School	2,000
Cedar Bluff High School	1,000
Center Street School	3,000
Centerville Elementary School	1,000
Central Alabama Community College	7,000
Central Alabama Community College - Alexander City	50,000
Central Elementary School	2,000
Central High East Elementary School	800
Central High School Library	1,000
Central High School - East Campus	5,000
Central High School West	2,000
Centre Elementary School	1,000
Centre Middle School	1,000
Chambers County Board of Education	25,000
Chambers County Library Board: Adult Illiteracy Project	2,500
Chapman Elementary School - PTA	2,000
Chapman Elementary School	2,500
Chapman Middle School - PTA	2,000
Chastang Middle School	2,500
Chattahoochee Valley Community College	2,000
Cherokee Bend Elementary	2,000
Cherokee County Area Vocational School	1,000
Cherokee County - Dixie Youth Program - For Educational Purposes	1,000
Cherokee County High School	1,000
Cherokee County Public Library	1,000
Chickasaw Elementary School	2,225
Childersburg City Library	1,000

Chilton County High School	1,000
Chilton Vocational Center	1,000
Chisholm Elementary School	2,000
Choctaw County Board of Education	4,000
Choctaw County Board of Education	10,854
Choctaw County Board of Education - Youth Leadership Education	1,500
Citronelle High School	2,000
Citronelle Middle School	3,000
CITY Program - Etowah County- Youth Services School District	200
Clanton Elementary School	1,000
Clark Middle School	2,225
Clarke County Board of Education	10,000
Clarke County Board of Education	7,916
Cleburne County Area Vocational School	1,000
Cleburne County Elementary School	1,000
Cleburne County High School	1,000
Cleburne County Public Library	1,000
Coffee County School System	4,417
Coffee Springs High School	3,000
Colbert County Board of Education	6,000
Colbert County School System	10,000
Colbert County Schools	8,000
Cold Springs High School	1,000
Cold Springs Junior High School	1,000
Collinsville High School	1,000
Collinsville Library	1,000
Colonial Hills Elementary School	500
Concord Elementary School	2,500
Concord Elementary School	954
Conecuh County Board of Education	10,000

Conecuh County Board of Education	10,833
Continuous Learning Center - Mobile County Board of Education	4,000
Coosa County Board of Education	5,000
Coosa County Board of Education	5,400
Cordova Elementary School	1,000
Cordova High School	1,000
Corley Elementary School	1,000
Corner K-12	2,722
Cottonwood High School	4,000
Council Traditional School	2,000
Council Traditional School	4,000
Craighead Elementary School	4,000
Crenshaw County Board of Education	30,000
Crestline Heights Elementary School	2,000
Crichton Elementary School	1,800
Crossville Public Library	1,200
Crossville School	1,000
Crumley Chapel Elementary School	2,250
Cullman County Board of Education	14,000
Cullman High School	1,000
Cullman Middle School	1,000
Curry Elementary School	1,000
Curry High School	1,000
Curry Middle School	1,000
D.A.R. School Grant	6,000
Dale County Board of Education	20,000
Dale County Board of Education	10,000
Daleville Board of Education	10,000
Dallas County Board of Education	1,000
Dallas County Board of Education - Youth Leadership Education	1,500

Dallas County Commission - Civic Education	50,000
Dallas County School Board	7,500
Dalraida Elementary School	1,500
Daphne Middle School	20,000
Dauphin Island Elementary School	10,000
Dauphin Island Parkway Branch Library	1,000
Davidson High School	1,000
Davis Hills Middle School - PTA	2,000
Davis Hills Elementary School	500
Davis Hills Middle School	500
Deaf and Blind, Alabama Institute for	6,000
Dean Road Elementary School	2,000
Decatur City Board of Education	10,000
Decatur City School Board	20,000
Decatur City School System	5,000
Dekalb County Board of Education	5,000
Dekalb County (Ft. Payne) Library	4,000
Dekalb County Library	2,500
Demopolis Board of Education	2,000
Demopolis City School Board	4,820
Disque Middle School Library	200
Dixon Elementary School	10,000
Dodge Elementary School	3,000
Dora High School	1,175
Dothan, Wiregrass Museum of Art Education Program, City of	10,000
Dothan City Board of Education - Cultural Programs	25,000
Dothan City Schools - Landmark Foundation Interpretive	9,000
Dothan High School	4,000
Dothan High School Band	1,000

Dothan High School Band	5,000
Douglas Elementary School	1,000
Douglas High School	1,000
Douglas Middle School	1,000
Dowling Junior High School	1,000
Dozier Elementary School	1,500
Drake Middle School	2,000
Duck Springs Elementary School Library	200
Dunbar Middle School	4,000
Dupuy Elementary School	2,000
E. R. Dickson Elementary School	1,000
E. S. Chastang Middle School	1,250
East Elementary Library	1,000
East Elementary P.E. Department	1,000
East Elementary School	1,000
East Franklin Junior High School	2,857
Eastwood Middle School	5,000
Edward A. Palmer Elementary School	3,000
Edward H. White Middle School	500
Eight Mile Elementary School	2,500
Elba City School System	2,835
Elizabeth Fonde Junior High School	1,000
Elmore County Board of Education	10,000
Elmore County Board of Education	6,000
Elmore County Board of Education - Millbrook Middle School	1,500
Stanhope Elmore	1,500
Elyton School	2,500
Emma Sansom High School Library	200
Empire Junior High School	1,175
Enterprise City School System	12,748

Escambia County High School	2,000
Etowah County Board of Education Strings Program	1,500
Etowah County Board of Education	20,000
Etowah County - For Youth Symphony Education Program	4,000
Evans Elementary School	1,000
Fairfield City Board of Education	3,500
Fairfield City Council	100,000
Fairhope High School	20,000
Farmstead Junior High School	1,175
Fayette County Board of Education	4,548
Fayette County Board of Education	10,000
Fayette County Elementary School	5,334
Fayette County High School	3,108
Fayette County Middle School	3,006
Five Points Elementary School	800
Flomaton High School	2,000
Florence City School System	10,000
Florence City Schools	15,000
Florence-Lauderdale Library	10,000
Florence-Lauderdale Public Library	1,000
Flowers Elementary School	1,500
Floyd Elementary School Library	200
Foley Elementary School	10,000
Forrest Avenue School	2,000
Forrest Middle School Library	200
Fort Payne City Board of Education	25,000
Fort Payne City Board of Education	5,000
Fort Payne High School	2,000
Fort Payne Middle School	2,000
Francis Marion High School	1,250

Franklin County Board of Education - With a Pro Rata Share Allocated to the Russellville City Board of Education	10,000
Fruithurst Elementary School	1,000
Fyffe High School	2,000
Gadsden, Continuing Education Hall Fund, City of	10,000
Gadsden, Quest for Excellence Education Program, City of	200
Gadsden Board of Education Strings Program	1,500
Gadsden High School Library	200
Garden City Elementary School	1,000
Gaylesville High School	1,000
Geneva High School	10,000
George Hall Elementary School	1,000
George Hall Elementary School	4,000
Georgiana High School	5,000
Geraldine Public Library	1,200
Geraldine School	1,000
Gilbertown Junior High School	2,000
Gilmore-Bell Vocational	661
Glen Oak School	1,000
Glendale Elementary School	3,000
Going Elementary School	1,000
Golden Springs Elementary School	12,500
Good Hope High School	1,000
Good Hope Junior High School	1,000
Goodwater City Library	1,000
Goodwater Public Library	1,000
Goodwyn Junior High School	1,500
Grand Bay High School	10,000
Grantswood Community School	2,000

Graysville City Library	1,000
Green Valley Elementary School	2,000
Greene County Board of Education	8,000
Greene County Board of Education - Youth Leadership Education	2,000
Greensboro Public High School West	1,250
Greensboro Public School East	2,050
Greensboro Public School West Elementary	800
Gresham Junior High School	2,000
Griggs Elementary School	3,000
Grissom High School	4,000
Guntersville School System	7,000
Gurley Elementary School Library	1,000
Gurley High School Library	1,000
Gurley Library	1,000
Gurley Library Building Fund	1,000
Gwin Elementary School	2,000
Hale County AVC	1,250
Hale County Board of Education - Youth Leadership Education	1,500
Hamilton Elementary School	2,225
Hanceville High School	1,000
Hanceville Junior High School	1,000
Harmon School	2,000
Hartford High School	7,000
Hartselle City Board of Education	8,000
Hartselle City School System	5,000
Hayes Middle School	5,000
Hazel Green Elementary School - PTA	2,000
Hazel Green High School - PTA	2,000
Hazelgreen Elementary School Library	1,000
Hazelgreen High School Library	1,000

Hazelgreen Library Building Fund	1,000
Hazen Harrell Middle School	800
Head Elementary School	1,500
Headland High School	5,000
Helen Keller Library (Tuscumbia)	10,000
Henagar Junior High School	1,000
Henagar Library	1,000
Highland Elementary School Library	200
Highland Gardens Elementary School	2,000
Highlands Elementary School	1,000
Hill School	3,000
Hillsdale Middle School	7,000
Hillview Elementary School	892
Hobbs Elementary School	1,000
Hokes Bluff City Library	10,000
Hollingers Island Elementary School	3,000
Homewood City Board of Education	9,000
Hoover, City of	25,000
Hoover City Board of Education	2,000
Houston County High School Band	5,000
Houston County AVC	4,000
Houston Memorial Public Library	1,000
Hubbertville High School	2,430
Hudson Middle School	2,000
Hudson Middle School Band	1,000
Hueytown City Library	1,000
Hueytown Elementary School	6,000
Hueytown Elementary School	2,914
Hueytown High School	6,000
Hueytown High School	3,378
Hueytown Public Library	4,000

Huffman High School	5,000
Huffman Middle School	3,000
Huntsville City School System	8,000
Huntsville City Schools	20,000
Huntsville High School	4,000
Huntsville-Madison County Public Library	1,000
Huntsville Middle School	2,400
Ider High School	2,000
Indian Springs Elementary School	2,500
Inglenook School	2,000
Irondale Community School	2,000
Isabella High School	1,000
Ivalee Elementary School Library	200
J. O. Johnson High School	500
Jackson County Board of Education	9,000
Jackson County Library	2,500
Jacksonville School System	2,500
Jacksonville State University	5,000
Jacksonville State University	42,500
Jefferson County Board of Education	25,000
The above appropriation shall include the following allocations:	
Kermit Johnson Elementary School.....	3,000
Rudd Junior High School.....	3,000
Jefferson County Board of Education	20,000
Jefferson County Board of Education - Shades Valley High School	2,000
Jefferson County Delegation Office - For Educational Purposes	20,000
Jefferson County Legislative Delegation - For Educational Purposes	20,000
Jefferson County Legislative Delegation - For Educational Purposes	20,000

Jefferson County Legislative Delegation - For Educational Purposes	50,000
Jefferson County Legislative Delegation - For Educational Purposes	20,000
Jefferson County Legislative Delegation - For Educational Purposes	50,000
Jefferson County Legislative Delegation - For Educational Purposes	20,000
Jefferson County Legislative Delegation - For Educational Purposes	20,000
Jefferson Davis Community College	5,000
Jefferson State Community College - Adopt A School Program	15,000
Jemison Elementary School	1,000
Jemison High School	1,000
Jess Lanier High School	2,000
John Essex High School	1,000
John Will Elementary School	7,000
Jones Chapel Junior High School	1,000
Jones Valley Elementary School	2,400
Keith High School	1,250
Killen Public Library	1,000
Kingston Elementary School	2,000
Lakewood Elementary School - PTA	2,000
Lamar County Board of Education	10,000
Lamar County Board of Education	4,548
Lamar County Elementary School	3,672
Lamar County High School	3,012
Lanett City Board of Education	15,000
Lauderdale County Board of Education	15,000
Lauderdale County School System	10,000
Lauderdale County School System	12,000
Lawrence County Board of Education	10,000

Lawrence County Board of Education	27,000
Lawrence County Commission	10,000
Lawson State Community College	4,000
Lawson State Community College	100,000
Lawson State Community College - Capital Outlay and Educational Equipment	875,000
Lee County Board of Education	20,000
Lee County Board of Education	10,000
Lee Elementary School	2,225
Lee High School - PTA - Huntsville City Board of Education	2,000
Lee High School - Montgomery County Board of Education	4,000
Leeds Elementary School	2,000
Leeds Junior High School	2,000
Leeds High School	4,600
LeFlore High School	1,250
Lewis Elementary School	2,000
Lexington Public Library	1,000
Limestone County Board of Education	50,000
Limestone County Board of Education	5,000
Limestone County School System	12,000
Lincoln City Library	1,000
Lincoln Elementary School - PTA	2,000
Lincoln Elementary School	500
Lincoln Middle School	2,500
Lincoln Public Library	1,000
Linden Board of Education	2,000
Linden City School Board	1,681
Loachapoka High School	2,000
Logan Junior High School	1,000

Lott Elementary School	1,500
Lowndes County Board of Education	8,000
Lowndes County Board of Education - Youth Leadership Education	1,500
Lupton Junior High School	1,000
Macon County Board of Education	10,000
Maddox Middle School	1,175
Madison County Board of Education	25,000
Madison County Commission	25,000
Madison County Commission	26,000
Madison County School System	13,000
Madison Library	1,000
Mae Eanes Middle School	1,800
Maplesville High School	1,000
Marengo County Board of Education	4,313
Marengo High School	2,000
Marion County Board of Education - With Pro Rata Share Allocated to the Winfield City Board of Education	10,000
Marion County Commission	20,000
Marion County Elementary School	2,160
Marion County High School	1,680
Marion Elementary Schools	800
Martha Thomas Elementary School	2,500
Martin High School	1,000
Mary B. Austin Elementary School	1,000
Mary G. Montgomery High School	4,000
Maryvale Elementary School	1,800
Maryvale Elementary School	4,000
Math and Science Foundation, Alabama School of	100,000
Matthews Elementary School	2,000
McAdory High School	6,711

McAdory High School	7,000
McCord Avenue Elementary School	1,000
Memorial Park Elementary School	1,175
Mertz Elementary School	3,000
Midfield City Board of Education	3,500
Midfield City Board of Education	2,000
Millbrook Middle\Junior High School	4,000
Minor High School	3,051
Minor Junior High School	2,618
Mobile County Board of Education - For the Old Satsuma School House Community Library	5,000
Mobile County Board of Education	20,000
Mobile County Board of Education	100,000
Mobile County Board of Education	60,000
Mobile County Training Middle School	1,250
Mobile Public Library	8,000
Mobile Public Library	10,000
Monroe County Board of Education	10,000
Monroe County Board of Education	10,833
Monte Sano Elementary School	2,400
Montgomery, City of	20,000
Montgomery, City of - Educational Purposes	20,000
Montgomery - Cleveland Ave. Branch Library, City of	5,000
Montgomery County Board of Education	20,000
Montgomery County Board of Education	20,000
Montgomery County Board of Education	50,000
Montgomery County Board of Education	60,000
Montgomery County Board of Education - Music Appreciation Program	20,000
Montgomery Libraries, City of	4,000
Montview Elementary School - PTA	2,000

Moon Lake Junior High School	1,000
Moore's Mill Elementary School - PTA	2,000
Morgan County Board of Education	6,000
Morgan County Board of Education	10,000
Morgan County School System	10,000
Morningside Elementary School	3,000
Morningview Elementary School	1,500
Mountain Brook Elementary School	2,000
Mountain Brook High School	4,600
Mountain Brook Junior High School	2,000
Mt. Olive Elementary School	1,156
Murphy High School	1,800
Muscle Shoals City School System	10,000
Muscle Shoals Schools	8,000
Nan Gray Davis Elementary School	10,000
Neal Elementary School	2,000
New Hope Elementary School Library	1,000
New Hope High School Library	1,000
New Hope Library	1,000
New Hope Library Building Fund	1,000
New Market Elementary School Library	1,000
North Birmingham Elementary	2,000
North Highland Elementary School	1,508
North Highland Elementary School	2,500
North Highland School	1,175
North Roebuck Elementary School	1,000
Northeast Junior College	50,000
Northington Elementary School	5,000
Northside High School	1,000
Northview High School	2,000

Northwest Alabama Community College -(Hamilton Campus, \$5,000; Phil Campbell Campus, \$5,000)	10,000
Oak Grove K-12	3,422
Oak Grove School	3,500
Oakdale Elementary School	2,000
Oakman Elementary School	1,000
Oakman High School	1,000
Old Shell Road Magnet School	1,800
Oneonta City Board of Education - Elementary Computer Technology	10,000
Opelika City Board of Education	10,000
Opelika City Board of Education - Opelika Arts Council	20,000
Opelika City Board of Education	10,000
Orchard Elementary School	7,000
Owens Crossroad Elementary Library	1,000
Oxford School System	20,000
Ozark City Board of Education	20,000
Paint Rock Valley High School Library	1,000
Palmer Pillans Middle School	4,000
Parish Elementary School	1,000
Parish High School	1,000
Parkview Learning Center	2,000
Perry County Board of Education - Youth Leadership Education	1,500
Phenix City Board of Education	7,000
Phenix City Board of Education	42,500
Phenix City-Russell County Council for Abused and Neglected Children Education Program	2,000
Phenix City-Russell County Library	2,000
Phil Campbell High School	2,857
Phillips Preparatory Magnet School	1,800

Phillips Preparatory Magnet School	2,000
Pickens County Board of Education	15,000
Pickens County Board of Education - Prisoner of War Museum	10,000
Pickens County School System	10,000
Piedmont School System	2,500
Pike County Schools	10,000
Pine Hill Middle School	1,000
Pittman Middle School	6,000
Pittman Middle School	3,354
Pizitz Middle School	2,000
Plainview High School	2,000
Pleasant Grove City Library	1,000
Pleasant Grove Elementary School	1,000
Pleasant Grove Elementary School	1,485
Pleasant Grove High School	2,566
Pollard McCall Junior High School	2,000
Pratt City Public Library	20,000
Public School and College Authority, Alabama	5,499,212
Rainsville Library	2,000
Rainsville Public Library	1,000
Ramsey Alternative High School	2,500
Ranburne Elementary School	1,000
Ranburne High School	1,000
Randolph Elementary School	1,000
Red Bay High School	2,857
Reid State Technical College	5,000
Rehobeth High School	4,000
Riggins Elementary School	2,000
Riverside Junior High School	2,000
Riverton School - PTA	2,000

Robert C. Hatch High School	1,250
Robinson Elementary School	1,000
Robinson Springs School	4,000
Rockford City Library	1,000
Rocky Ridge Elementary School	2,000
Rogersville Public Library	1,000
Rolling Hills Elementary School	1,000
Ruhama Junior High School	1,000
Russell County Board of Education	7,000
Russellville High School	2,858
Salem Elementary School	800
Samson High School	7,000
Sand Rock High School	1,000
Saraland Elementary School	2,225
Sardis High School Library	200
Satsuma High School	2,225
Scottsboro Board of Education	9,000
Scottsboro Board of Education	25,000
Scottsboro Public Library	2,000
Selma Board of Education - Youth Leadership Education	1,500
Selma City School System	3,000
Selma School Board, City of	7,500
Semmes Elementary School	2,000
Semmes Middle School	3,000
Shades Mountain Elementary School	2,000
Shades Valley High School	4,600
Shaw High School	7,000
Sheffield City Board of Education	7,000
Sheffield City School System	10,000
Sheffield Schools	4,000

Shelby County Delegation Office - For Educational Purposes	20,000
Shelby County School Board	20,000
Shelby County Writing Project	10,000
Shiloh Elementary Middle School	800
Simmons Middle School	2,000
Sipsey Junior High School	1,175
Sky Line Elementary School Library	1,000
Sky Line High School Library	1,000
Skyland Elementary School	2,000
Slocomb High School	7,000
Smith Middle School	3,000
South Brookley Elementary School	3,000
South Choctaw High School	2,000
South Lamar Elementary School	2,562
South Lamar High School	2,556
Southeastern Elementary School - Computer Technology	10,000
Southern Union State Junior College (Lee County Campus)	2,000
Spring Garden High School	1,000
St. Clair County Board of Education	5,000
St. Clair County Library System	15,000
St. Elmo Elementary School	10,000
Stafford Elementary School	600
Stafford Elementary School	5,000
Stanhope Elmore High School	4,000
Stevenson/Bridgeport Library	2,000
Stillman Heights Elementary School	2,000
Straughn High School	20,000
Striplin Elementary School Library	200
Sulligent Elementary School	3,510
Sulligent High School	3,276
Sumiton Elementary\Middle School	1,175

Sumter County Board of Education	8,000
Sumter County Board of Education - Youth Leadership Education	1,500
Sun Valley Elementary School	1,000
Sunshine High School	2,450
Sweet Water High School	4,000
Sylacauga Board of Education	20,000
Sylacauga City Board of Education	5,400
Sylacauga City Library	1,000
Sylvania High School	2,000
T. R. Simmons Elementary School	1,175
T. S. Boyd Elementary School	1,175
Talladega City Board of Education	9,000
Talladega City Board of Education	5,400
Talladega County Board of Education	7,000
Talladega County Board of Education	5,400
Talladega City Library	1,000
Talladega Public Library	2,000
Tallapoosa County Board of Education	15,000
Tallapoosa County School System	10,000
Tallassee City Board of Education	5,000
Tallassee City Board of Education	5,400
Tallassee City Library	1,000
Tannehill Learning Center	60,000
Tanner-Williams Elementary School	2,500
Tarrant Library, City of	5,000
Tenth Street Elementary School	12,500
Terry Heights Elementary School	500
Tharptown Junior High School	2,857
Theodore Middle School	10,000
Theodore High School	10,000
Thomasville City School Board	2,917
Thomasville Elementary School	2,000

Thomasville High School	2,000
Thompson Elementary School Library	200
Thorsby High School	1,000
Tillman Corner Branch Library	1,000
Townley Junior High School	1,000
Trenholm State Technical College	50,000
Trenholm State Technical College	7,000
Troy - Board of Education, City of	10,000
Troy City Schools	10,000
Tuscaloosa County Board of Education - Northside High School	5,000
Tuscaloosa County Board of Education - Walker Elementary School	5,000
Tuscaloosa County Public Library	5,000
Tuscaloosa County School Board	20,000
Tuscaloosa County School System	10,000
Tuscaloosa County School System	15,000
Tuscaloosa Middle School	5,000
Tuscumbia - Helen Keller Library, City of	15,000
Tuscumbia City Board of Education	7,000
Tuscumbia City School System	10,000
Uniontown Elementary School	800
Uniontown Middle School	900
University of Alabama/Birmingham - Environmental Station	15,000
University of Alabama/Huntsville	1,000
University of North Alabama	1,000
University of North Alabama - Kilby at Risk Research Center	25,000
University of South Alabama Office of Development	15,000
University Place Elementary School	5,000
University Place Elementary School	600
Valley City Board of Education	5,000

Valley - Community Theatre Education Program, City of	2,500
Valley Head High School	2,000
Valley Junior High School	1,175
Verbena High School	1,000
Verner Elementary School	5,000
Vestavia, City of	25,000
Vestavia Hills High School	4,600
Vestavia Hills Elementary School - West	2,000
Vestavia Hills Elementary School - East	2,000
Vestavia Hills Elementary School - Central	2,000
Vigor High School	2,500
Vina High School	2,857
Vincent Schools	15,000
Volunteers of Clay, Randolph and Chambers Counties	20,000
W. H. Leinkauf Elementary School	1,800
W. J. Christian School	3,000
W. J. Jones Elementary School	1,000
Walker Area Vocational Center	1,175
Walker College - Business Development Center	35,000
Walker County Alternative School	1,175
Walker Elementary School	1,000
Walker High School	1,175
Walker Junior College	1,175
Wallace Community College	5,000
Wallace Community College at Hanceville - Capital Outlay	200,000
Walnut Grove Elementary School Library	1,000
Wares Ferry Road Elementary School	1,500
Wares Ferry Road Elementary School	2,000
Warrior City Library	1,000
Washington County Board of Education	10,000
Washington County Board of Education	10,833

Washington School	2,500
Weatherly Elementary School	2,400
Webb School	2,000
West Blocton Elementary School	1,000
West Blocton High School	1,000
West Elementary Library	1,000
West Elementary P.E. Department	1,000
West Elementary School	1,000
West End Elementary School	1,000
West Hills Elementary	2,000
West Jasper Elementary School	1,175
West Jefferson High School	2,000
West Jefferson K-12	1,280
West Mastin Lake Elementary School	500
West Point High School	1,000
West Point Junior High School	1,000
West Side Library	10,000
West Side Middle School	800
Westlawn Elementary School	1,800
Westlawn Middle School	2,000
Wetumpka City Library	1,000
Whatiey Elementary School	5,000
Whistler Elementary School	2,500
Whitesboro Elementary School Library	200
Whitley Elementary School	3,000
Wicksburg High School	4,000
Wilcox Central High School	3,000
Wilcox County Board of Education - Youth Leadership Education	1,500
Wilcox County Middle School	1,000
Williams Avenue School	2,000
Williamson High School	4,000
Williamson High School	1,000

Wilmer Elementary School	2,000
Winfield City School	900
Winston County Board of Education - With a Pro Rata Share Allocated to the Haleyville Board of Education	10,000
Woodcock Elementary School	1,800
Woodstock Elementary School	1,000
Woodville Elementary School Library	1,000
Woodville High School Library	1,000
Woodville Library	1,000
Woodville Library Building Fund	1,000
Woodward Elementary School	1,270
Wright Elementary School	1,000
Wrights Mill Elementary School	2,000
Youth Services - Grant to Children's Harbor, Department of	1,000
Zinnerman Elementary School	472

Section 2. The provisions of this act are severable. If any part of the Act is declared invalid or unconstitutional, such declaration shall not affect the part which remains.

Section 3. All laws or parts of laws which conflict with this Act are hereby repealed.

Section 4. This act shall become effective October 1, 1993.

Approved May 27, 1993

Time: 3:16 P.M.

Act No. 93-790

S.J.R. 142 – Senator Dial

SENATE JOINT RESOLUTION

EXPRESSING CONCERN ABOUT THE USE OF AN
ENERGY TAX TO REDUCE THE FEDERAL BUDGET DEFICIT.

WHEREAS, President Clinton's goals of economic growth and deficit reduction deserve, and have received, wide support; and

WHEREAS, a tax on energy based on its heat content, as measured in British Thermal Units or BTUs, has been proposed by the

Clinton administration as one of the major sources of additional revenues for its deficit reduction plan; and

WHEREAS, Alabama, as the 10th highest energy-consuming state in America, will be paying a disproportionate share of this new tax, both in dollars and in jobs, and no other nation imposes a tax on the heat content of its energy supplies; and

WHEREAS, there is a direct relationship between the price of energy and economic growth as witnessed during the Arab oil embargo in the 1970s, and over a five-year period, the BTU tax would reduce our nation's Gross Domestic Product by almost \$170 billion and could result in the loss of as many as 400,000 American jobs; and

WHEREAS, the environmental gains of this BTU tax have been estimated by the Environmental Protection Agency at no more than one percent for any major pollutant and any reduction in our nation's reliance on foreign oil supplies resulting from this BTU tax will be more than offset by continuing declines in domestic oil production; and

WHEREAS, in 1989, this Legislature adopted SJR 32, Act No. 89-155, opposing any increase in federal motor fuel taxes for the purpose of reducing the federal budget deficit and this BTU tax will increase the price of motor fuels by 7.5 cents to 10 cents per gallon; and

WHEREAS, the average American family of four will pay an additional \$500 per year in energy costs, and a family of four in Alabama will pay an additional \$540, as a result of the proposed BTU tax, but the average low and middle-income families, who spend a greater proportion of their income on energy than do higher-income families, will bear the heaviest burden of the BTU tax; and

WHEREAS, when fully implemented, the proposed BTU tax will cost the State of Alabama and its citizens more than \$550 million per year; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That we fully support President Clinton's objective of reducing the federal deficit, but we do not believe a BTU tax is good for our nation or the State of Alabama since it will not achieve its objective of reducing the federal deficit.

BE IT FURTHER RESOLVED, That copies of this resolution be sent to President Clinton, Treasury Secretary Bentsen, to members of the United States House Ways and Means Committee and the United States Senate Finance Committee, and to the members of Alabama's Delegation to Congress.

Approved May 27, 1993

Time: 9:18 P.M.

1980 Commissioners Standard Ordinary Mortality Table
Basic Value 6.00%
Age Near Birthday
Male

AGE x	L	d_x^{1000}	1000q _x	$\frac{L}{1000}$	V ^x	AGE x
0	10 000 000	41 800	4.18	70.83	1 000 000 00	0
1	9 958 200	10 855	1.07	70.13	.843 288 23	1
2	9 847 845	8 248	.88	69.20	.888 886 44	2
3	9 727 849	8 239	.86	68.27	.828 818 28	3
4	9 627 858	8 432	.85	67.34	.820 083 86	4
5	9 518 826	8 827	.90	66.40	.747 258 17	5
6	9 409 838	8 972	.96	65.46	.704 860 84	6
7	9 301 077	9 821	.80	64.52	.695 057 11	7
8	9 183 158	7 518	.76	63.57	.627 412 37	8
9	9 055 837	7 102	.72	62.62	.581 888 48	9
10	8 978 322	7 211	.73	61.66	.554 284 14	10
11	8 871 111	7 601	.77	60.71	.626 787 83	11
12	8 753 810	8 157	.89	59.76	.486 968 36	12
13	8 655 128	9 757	.89	58.81	.468 818 02	13
14	8 545 268	11 222	1.18	57.86	.442 300 88	14
15	8 414 041	13 033	1.33	56.92	.417 265 08	15
16	8 270 868	14 830	1.21	55.97	.392 648 23	16
17	8 096 138	16 378	1.67	55.03	.371 364 42	17
18	7 909 762	17 688	1.78	54.18	.350 343 78	18
19	7 772 338	18 777	1.86	53.27	.330 813 01	19
20	7 554 158	18 839	1.80	52.37	.311 804 73	20
21	7 354 878	18 585	1.81	51.47	.284 153 40	21
22	7 177 031	18 665	1.88	50.57	.277 505 10	22
23	6 988 658	18 040	1.88	49.66	.261 781 26	23
24	6 800 876	17 818	1.82	48.75	.248 978 55	24
25	6 653 027	17 104	1.71	47.84	.232 888 13	25
26	6 445 803	16 887	1.73	46.93	.219 810 53	26
27	6 219 218	16 488	1.71	46.01	.207 367 85	27
28	6 127 750	16 342	1.70	45.09	.195 200 18	28
29	5 986 408	16 410	1.71	44.16	.184 556 74	29
30	5 758 898	16 573	1.73	43.24	.174 110 13	30
31	5 517 425	17 022	1.74	42.31	.164 554 44	31
32	5 246 402	17 470	1.83	41.38	.154 857 40	32
33	4 982 832	18 200	1.81	40.46	.148 186 22	33
34	4 710 732	19 031	2.00	39.54	.137 222 10	34
35	4 481 711	20 028	2.11	38.61	.130 105 22	35
36	4 211 683	21 217	2.24	37.69	.122 740 77	36
37	3 950 468	22 406	2.36	36.76	.115 829 82	37
38	3 727 785	24 324	2.68	35.83	.109 238 85	38
39	3 403 461	26 238	2.78	34.86	.103 055 82	39
40	3 177 275	28 148	3.02	33.95	.096 537 11	40
41	2 948 806	30 758	3.28	33.18	.091 218 05	41
42	2 718 148	33 179	3.56	32.26	.088 527 40	42
43	2 514 875	35 785	3.87	31.38	.081 829 82	43
44	2 248 042	38 752	4.19	30.50	.077 009 08	44
45	2 102 288	41 807	4.35	29.62	.072 650 07	45
46	1 968 362	44 908	4.78	28.78	.068 537 11	46
47	1 723 274	48 536	5.32	27.80	.064 958 31	47
48	1 574 738	52 089	5.74	27.04	.060 888 40	48
49	1 422 868	56 036	6.03	26.26	.056 845 48	49
50	1 266 818	60 186	6.11	25.38	.054 288 38	50
51	1 106 452	65 017	7.30	24.52	.051 215 44	51
52	984 435	70 825	7.20	23.70	.048 418 15	52
53	871 057	78 386	6.71	22.88	.045 581 86	53
54	884 601	83 121	8.86	22.08	.043 001 47	54
55	811 540	90 400	10.47	21.78	.040 509 42	55
56	811 377	97 855	11.46	20.81	.038 471 85	56
57	423 722	105 212	12.48	19.84	.036 104 86	57
58	318 510	113 048	13.59	18.88	.034 061 18	58
59	205 481	121 195	14.77	17.91	.032 152 10	59
60	884 266	128 885	18.08	17.51	.030 314 34	60
61	854 271	138 818	17.54	16.78	.028 588 13	61
62	7 814 753	149 885	19.18	16.08	.026 878 45	62
63	7 664 788	161 420	21.06	15.38	.025 452 80	63
64	7 603 268	173 388	22.14	14.70	.024 011 11	64
65	7 378 740	186 322	22.14	14.04	.022 852 84	65
66	7 143 418	198 844	27.85	13.38	.021 370 41	66
67	6 844 474	211 380	30.44	12.76	.020 160 77	67
68	6 733 084	222 471	33.18	12.14	.018 818 88	68
69	6 508 813	235 453	36.17	11.54	.017 843 01	69
70	6 274 160	247 892	38.51	10.98	.016 827 37	70
71	6 026 268	260 872	43.30	10.38	.015 868 99	71
72	5 765 331	274 718	47.65	9.84	.015 065 50	72
73	5 490 610	288 028	52.84	9.30	.014 212 54	73
74	5 201 587	302 680	58.19	8.78	.013 408 46	74
75	4 898 807	314 461	64.19	8.30	.012 648 11	75
76	4 584 406	323 341	70.82	7.84	.011 923 13	76
77	4 261 105	329 818	77.12	7.40	.011 257 47	77
78	3 932 489	329 836	83.80	6.97	.010 620 44	78
79	3 602 553	328 012	81.05	6.57	.010 018 28	79
80	3 274 541	317 181	97.48	6.18	.009 452 18	80
81	2 950 885	308 804	107.48	5.80	.008 917 13	81
82	2 633 721	298 872	117.25	5.44	.008 412 38	82
83	2 324 870	288 184	124.76	5.09	.007 936 73	83
84	2 026 728	284 248	140.25	4.77	.007 486 99	84
85	1 742 478	268 512	152.85	4.48	.007 063 20	85
86	1 475 866	245 818	166.00	4.18	.006 663 40	86
87	1 230 823	220 884	179.55	3.81	.006 286 22	87
88	1 009 829	195 170	193.27	3.66	.005 820 40	88
89	814 659	168 871	207.81	3.48	.005 384 71	89
90	645 788	143 218	221.77	3.18	.005 278 03	90
91	502 872	118 100	236.98	2.84	.004 878 28	91
92	383 472	91 181	252.40	2.70	.004 847 13	92
93	286 281	77 800	272.11	2.44	.004 431 84	93
94	208 361	61 660	295.90	2.17	.004 180 70	94
95	146 721	48 412	328.89	1.84	.003 444 46	95
96	98 309	37 805	384.55	1.54	.003 720 81	96
97	80 504	28 054	480.20	1.20	.003 510 18	97
98	71 450	20 571	657.88	1.00	.003 312 50	98
99	10 757	10 757	1000 00	50	.003 124 05	99

Description of meaning of codes on CSO Table

lx = Number living

dx = Deaths each year

1000qx = Death rate per 1,000

ex = Expectation of life

TABLE 16
1983 TABLE Q— 1.000px

Age	Males	Females	Age	Males	Females	Age	Males	Females
5	0.377	0.194	45	2.399	1.122	85	90.987	65.518
6	0.350	0.160	46	2.693	1.231	86	99.122	73.493
7	0.333	0.134	47	3.009	1.356	87	107.577	82.318
8	0.352	0.134	48	3.343	1.499	88	116.316	92.017
9	0.368	0.136	49	3.694	1.657	89	125.394	102.491
10	0.382	0.141	50	4.057	1.830	90	134.887	113.605
11	0.394	0.147	51	4.431	2.016	91	144.873	125.227
12	0.405	0.155	52	4.812	2.215	92	155.429	137.222
13	0.415	0.165	53	5.198	2.426	93	166.629	149.462
14	0.425	0.175	54	5.591	2.650	94	178.537	161.834
15	0.435	0.183	55	5.994	2.891	95	191.214	174.228
16	0.446	0.201	56	6.409	3.151	96	204.721	186.535
17	0.458	0.214	57	6.839	3.432	97	219.120	198.646
18	0.472	0.229	58	7.299	3.739	98	234.755	211.102
19	0.488	0.244	59	7.782	4.081	99	251.889	224.445
20	0.505	0.260	60	8.338	4.467	100	270.906	239.215
21	0.525	0.276	61	8.983	4.908	101	292.111	255.953
22	0.546	0.293	62	9.740	5.413	102	315.826	275.201
23	0.570	0.311	63	10.630	5.990	103	342.377	297.500
24	0.596	0.330	64	11.664	6.633	104	372.086	323.390
25	0.622	0.349	65	12.851	7.336	105	405.278	353.414
26	0.650	0.368	66	14.199	8.090	106	442.277	388.111
27	0.677	0.387	67	15.717	8.888	107	483.406	423.023
28	0.704	0.405	68	17.414	9.731	108	528.989	473.692
29	0.731	0.423	69	19.296	10.653	109	579.351	525.658
30	0.759	0.441	70	21.371	11.697	110	634.814	584.462
31	0.786	0.460	71	23.647	12.905	111	695.704	650.646
32	0.814	0.479	72	26.131	14.319	112	762.343	724.750
33	0.843	0.499	73	28.835	15.980	113	835.056	807.316
34	0.876	0.521	74	31.794	17.909	114	914.167	898.885
35	0.917	0.545	75	35.046	20.127	115	1000.000	1000.000
36	0.968	0.574	76	38.631	22.654			
37	1.032	0.607	77	42.587	25.509			
38	1.114	0.646	78	46.951	28.717			
39	1.216	0.691	79	51.755	32.328			
40	1.341	0.742	80	57.026	36.395			
41	1.492	0.801	81	62.791	40.975			
42	1.673	0.867	82	69.081	46.121			
43	1.886	0.942	83	75.908	51.889			
44	2.129	1.026	84	83.230	58.336			

1980 Commissioners Standard Ordinary Mortality Table
Basic Value 6.00%
Age Near Birthday
Female

AGE x	L_x	d_x	$1000q_x$	t_x	U^A	AGE x
0	10 000 000	28 800	2 88	75 83	1 000 000 00	0
1	9 971 100	8 875	8 75	75 04	843 288 23	1
2	9 962 425	8 070	8 1	74 11	889 896 44	2
3	9 954 355	7 184	7 18	72 17	839 818 28	3
4	9 946 481	7 858	7 77	72 23	792 083 86	4
5	9 938 322	7 554	7 55	71 28	747 258 17	5
6	9 931 278	7 250	7 25	70 34	704 860 54	6
7	9 924 028	7 145	7 14	69 39	665 057 11	7
8	9 916 883	6 842	7 0	68 44	627 412 37	8
9	9 909 841	6 838	6 83	67 48	591 888 46	9
10	9 903 103	6 734	6 73	66 53	558 284 76	10
11	9 896 268	7 878	6 8	65 87	526 782 93	11
12	9 888 641	7 120	7 12	64 82	496 988 36	12
13	9 882 421	7 412	7 41	63 87	468 838 02	13
14	9 875 008	8 875	8 75	62 87	442 300 86	14
15	9 867 108	8 387	8 38	61 76	417 285 06	15
16	9 858 722	8 873	8 73	60 82	393 646 28	16
17	9 849 848	8 873	8 73	59 77	371 364 42	17
18	9 840 492	8 644	8 64	58 83	350 343 78	18
19	9 830 848	10 027	1 02	57 88	330 513 01	19
20	9 820 821	10 112	1 02	56 77	311 804 73	20
21	9 810 508	10 497	1 07	55 10	294 155 40	21
22	9 800 012	10 882	1 08	53 18	277 505 10	22
23	9 789 330	11 886	1 18	51 22	261 787 25	23
24	9 778 464	11 877	1 18	49 28	246 878 55	24
25	9 767 317	11 370	1 13	47 24	232 888 83	25
26	9 755 887	11 870	1 18	45 19	219 800 00	26
27	9 744 377	11 888	1 22	43 06	207 367 95	27
28	9 732 488	12 263	1 26	40 52	195 830 14	28
29	9 720 228	12 636	1 26	38 15	184 556 74	29
30	9 707 590	11 105	1 10	35 47	174 110 13	30
31	9 694 485	13 572	1 40	33 00	164 254 84	31
32	9 680 913	14 037	1 45	30 39	154 857 40	32
33	9 666 878	15 500	1 50	28 44	146 186 22	33
34	9 652 378	15 251	1 52	26 41	137 811 53	34
35	9 637 125	15 801	1 58	24 38	130 105 27	35
36	9 621 274	18 913	1 76	22 05	122 740 27	36
37	9 604 281	18 152	1 81	20 00	115 793 18	37
38	9 586 138	18 356	1 83	18 00	109 238 85	38
39	9 567 843	21 218	2 04	16 18	103 058 52	39
40	9 548 345	22 108	2 21	14 38	97 222 10	40
41	9 527 245	25 139	2 64	12 48	91 718 00	41
42	9 497 106	21 257	2 21	10 57	86 527 40	42
43	9 469 848	28 262	3 09	9 35	81 629 82	43
44	9 440 587	31 343	3 32	8 77	77 008 08	44
45	9 409 244	31 487	3 35	7 88	72 650 07	45
46	9 375 747	35 628	3 80	7 00	68 537 81	46
47	9 340 118	31 827	3 40	6 12	64 658 31	47
48	9 302 282	40 778	4 37	5 25	60 988 40	48
49	9 262 013	42 883	4 63	4 39	57 545 86	49
50	9 218 130	45 727	4 96	3 51	54 288 36	50
51	9 173 403	48 711	5 31	2 67	51 258 57	51
52	9 124 692	52 011	5 70	2 12	48 316 45	52
53	9 072 681	55 787	6 15	1 68	45 581 56	53
54	9 018 484	59 602	6 60	1 24	43 063 37	54
55	8 957 282	63 507	7 08	0 81	40 567 42	55
56	8 893 775	67 328	7 57	0 37	38 271 15	56
57	8 828 446	70 878	8 03	0 00	36 104 88	57
58	8 755 573	74 180	8 47	22 86	34 061 19	58
59	8 681 413	77 612	8 94	22 05	32 133 20	59
60	8 603 801	81 478	9 47	21 25	30 314 34	60
61	8 522 323	88 331	10 12	20 44	28 588 43	61
62	8 435 892	92 458	10 86	19 85	26 878 85	62
63	8 342 549	100 289	12 02	18 88	25 452 50	63
64	8 243 245	109 223	13 25	18 08	24 011 78	64
65	8 134 022	118 675	14 59	17 32	22 852 84	65
66	8 015 347	128 248	16 00	16 57	21 370 41	66
67	7 887 101	137 472	17 43	15 83	20 180 77	67
68	7 748 629	146 003	18 84	15 10	19 018 58	68
69	7 603 826	154 810	20 36	14 38	17 943 01	69
70	7 448 816	164 683	22 11	13 67	16 927 37	70
71	7 284 123	178 484	24 22	12 87	15 868 21	71
72	7 107 828	190 882	26 87	12 28	14 865 30	72
73	6 918 647	208 260	30 11	11 60	14 212 54	73
74	6 708 387	227 616	33 93	10 95	13 408 06	74
75	6 480 771	247 825	38 24	10 32	12 488 11	75
76	6 232 948	267 100	42 87	9 71	11 933 12	76
77	5 965 118	286 564	48 04	9 12	11 127 67	77
78	5 678 552	303 518	53 45	8 55	10 670 44	78
79	5 375 033	318 008	59 18	8 01	10 018 28	79
80	5 056 025	333 647	65 98	7 48	9 008 452 15	80
81	4 722 378	347 567	73 80	6 88	8 008 817 13	81
82	4 374 811	360 484	82 48	6 28	7 008 412 78	82
83	4 014 327	371 448	92 53	5 63	6 007 936 21	83
84	3 642 881	378 187	103 81	5 09	5 007 488 90	84
85	3 264 714	378 033	116 10	4 59	4 007 063 10	85
86	2 885 881	373 090	129 29	4 10	3 006 663 40	86
87	2 512 581	360 105	143 32	3 63	2 006 288 22	87
88	2 140 480	340 480	158 18	3 18	1 005 820 10	88
89	1 812 006	315 180	173 94	2 77	905 584 72	89
90	1 486 876	285 520	190 75	2 45	805 278 03	90
91	1 161 306	251 306	214 31	2 18	705 008 28	91
92	858 301	218 269	254 81	1 91	604 697 43	92
93	739 032	185 874	251 51	1 64	504 431 54	93
94	623 158	154 504	247 94	1 37	404 165 65	94
95	508 655	126 501	248 31	1 10	303 844 05	95
96	392 154	102 258	263 74	0 83	203 720 81	96
97	277 895	80 895	291 47	0 56	103 518 88	97
98	169 200	58 502	345 85	0 29	003 311 50	98
99	30 698	30 698	1000 00	0 00	003 124 09	99

Description of meaning of codes on CSO Table

lx = Number living
dx = Deaths each year
1000qx = Death rate per 1,000
ex = Expectation of life

Annuity Certain Table

Annuity Table showing the current present cash value of an annuity certain of one hundred dollars per month, month by month from two to four hundred eighty months at 2%, 2½%, 3%, 3½%, 4%, 4½%, 5%, 5½%, and 6%.
As provided in Act No. 456, Approved August 31, 1953.

AGE	2.0%	2.5%	3.0%	3.5%	4.0%	4.5%	5.0%	5.5%	6.0%	AGE
2	INTEREST	INTEREST	INTEREST	INTEREST	INTEREST	INTEREST	INTEREST	INTEREST	INTEREST	2
0	.00010	.00010	.00010	.00010	.00010	.00010	.00010	.00010	.00010	0
1	.00017	.00017	.00017	.00017	.00017	.00017	.00017	.00017	.00017	1
2	.00024	.00024	.00024	.00024	.00024	.00024	.00024	.00024	.00024	2
3	.00031	.00031	.00031	.00031	.00031	.00031	.00031	.00031	.00031	3
4	.00038	.00038	.00038	.00038	.00038	.00038	.00038	.00038	.00038	4
5	.00045	.00045	.00045	.00045	.00045	.00045	.00045	.00045	.00045	5
6	.00052	.00052	.00052	.00052	.00052	.00052	.00052	.00052	.00052	6
7	.00059	.00059	.00059	.00059	.00059	.00059	.00059	.00059	.00059	7
8	.00066	.00066	.00066	.00066	.00066	.00066	.00066	.00066	.00066	8
9	.00073	.00073	.00073	.00073	.00073	.00073	.00073	.00073	.00073	9
10	.00080	.00080	.00080	.00080	.00080	.00080	.00080	.00080	.00080	10
11	.00087	.00087	.00087	.00087	.00087	.00087	.00087	.00087	.00087	11
12	.00094	.00094	.00094	.00094	.00094	.00094	.00094	.00094	.00094	12
13	.00101	.00101	.00101	.00101	.00101	.00101	.00101	.00101	.00101	13
14	.00108	.00108	.00108	.00108	.00108	.00108	.00108	.00108	.00108	14
15	.00115	.00115	.00115	.00115	.00115	.00115	.00115	.00115	.00115	15
16	.00122	.00122	.00122	.00122	.00122	.00122	.00122	.00122	.00122	16
17	.00129	.00129	.00129	.00129	.00129	.00129	.00129	.00129	.00129	17
18	.00136	.00136	.00136	.00136	.00136	.00136	.00136	.00136	.00136	18
19	.00143	.00143	.00143	.00143	.00143	.00143	.00143	.00143	.00143	19
20	.00150	.00150	.00150	.00150	.00150	.00150	.00150	.00150	.00150	20
21	.00157	.00157	.00157	.00157	.00157	.00157	.00157	.00157	.00157	21
22	.00164	.00164	.00164	.00164	.00164	.00164	.00164	.00164	.00164	22
23	.00171	.00171	.00171	.00171	.00171	.00171	.00171	.00171	.00171	23
24	.00178	.00178	.00178	.00178	.00178	.00178	.00178	.00178	.00178	24
25	.00185	.00185	.00185	.00185	.00185	.00185	.00185	.00185	.00185	25
26	.00192	.00192	.00192	.00192	.00192	.00192	.00192	.00192	.00192	26
27	.00199	.00199	.00199	.00199	.00199	.00199	.00199	.00199	.00199	27
28	.00206	.00206	.00206	.00206	.00206	.00206	.00206	.00206	.00206	28
29	.00213	.00213	.00213	.00213	.00213	.00213	.00213	.00213	.00213	29
30	.00220	.00220	.00220	.00220	.00220	.00220	.00220	.00220	.00220	30
31	.00227	.00227	.00227	.00227	.00227	.00227	.00227	.00227	.00227	31
32	.00234	.00234	.00234	.00234	.00234	.00234	.00234	.00234	.00234	32
33	.00241	.00241	.00241	.00241	.00241	.00241	.00241	.00241	.00241	33
34	.00248	.00248	.00248	.00248	.00248	.00248	.00248	.00248	.00248	34
35	.00255	.00255	.00255	.00255	.00255	.00255	.00255	.00255	.00255	35
36	.00262	.00262	.00262	.00262	.00262	.00262	.00262	.00262	.00262	36
37	.00269	.00269	.00269	.00269	.00269	.00269	.00269	.00269	.00269	37
38	.00276	.00276	.00276	.00276	.00276	.00276	.00276	.00276	.00276	38
39	.00283	.00283	.00283	.00283	.00283	.00283	.00283	.00283	.00283	39
40	.00290	.00290	.00290	.00290	.00290	.00290	.00290	.00290	.00290	40
41	.00297	.00297	.00297	.00297	.00297	.00297	.00297	.00297	.00297	41
42	.00304	.00304	.00304	.00304	.00304	.00304	.00304	.00304	.00304	42
43	.00311	.00311	.00311	.00311	.00311	.00311	.00311	.00311	.00311	43
44	.00318	.00318	.00318	.00318	.00318	.00318	.00318	.00318	.00318	44
45	.00325	.00325	.00325	.00325	.00325	.00325	.00325	.00325	.00325	45
46	.00332	.00332	.00332	.00332	.00332	.00332	.00332	.00332	.00332	46
47	.00339	.00339	.00339	.00339	.00339	.00339	.00339	.00339	.00339	47
48	.00346	.00346	.00346	.00346	.00346	.00346	.00346	.00346	.00346	48
49	.00353	.00353	.00353	.00353	.00353	.00353	.00353	.00353	.00353	49
50	.00360	.00360	.00360	.00360	.00360	.00360	.00360	.00360	.00360	50

OFFICIALS OF THE STATE OF ALABAMA — 1993

Address all State Officials: Montgomery, Alabama 36130,
unless otherwise noted.

JIM FOLSOM, Governor

<i>President of the Senate</i>	242-7900
<i>Attorney General</i>	242-7300
Jimmy Evans	
<i>Secretary of State</i>	242-7200
Billy Joe Camp	
<i>State Auditor</i>	242-7010
Terry Ellis	
<i>State Treasurer</i>	242-7500
George Wallace, Jr.	
<i>Superintendent of Education</i>	242-9700
Dr. Wayne Teague	
<i>Commissioner of Agriculture and Industries</i>	242-2650
A.W. Todd	
<i>State Board of Education</i>	242-9950
50 North Ripley Street, Suite 5114 5th Floor, Montgomery, AL 36130	
<i>1st District</i>	John M. Tyson, Jr.
<i>2nd District</i>	Steadman S. Shealy, Jr.
<i>3rd District</i>	Dan Cleckler
<i>4th District</i>	Dr. Ethel H. Hall
<i>5th District</i>	Willie J. Paul
<i>6th District</i>	Bettye Fine Collins
<i>7th District</i>	Victor P. Poole
<i>8th District</i>	Tazewell Shepard
<i>Adjustment, State Board of</i>	
Billy Joe Camp	<i>Secretary of State</i>
Terry Ellis	<i>State Auditor</i>
George Wallace, Jr.	<i>State Treasurer</i>
James C. White	<i>Director of Finance</i>
<i>Adjutant General</i>	271-7200
1720 Cong. W.L. Dickinson Dr., Montgomery, AL 36109-0711	
Major General James E. Moore	
<i>Aging, Commission on</i>	242-5743
770 Washington Avenue, Suite 544, Montgomery, AL 36130	
Claude Hooks, Jr.	

<i>Agriculture and Industries, State Dept. of</i>	242-2650
1445 Federal Drive, Montgomery, AL 36109	
A.W. Todd	<i>Commissioner</i>
A.N. McKinney	<i>Assistant Commissioner</i>
Marise Sandage	<i>Legal Counsel</i>
Sidney Haymon	<i>Chief Accountant</i>
Gale Norman	<i>Publications & Information</i>
Faye Hall	<i>Personnel</i>
Bo McClain	<i>General Services</i>
John Gamble	<i>Agricultural Economics</i>
Dr. J. Lee Alley	<i>Animal Industry</i>
Felix Welch	<i>Marketing</i>
Gurnia Moore	<i>Seed</i>
Lance Hester	<i>Agricultural Chemistry</i>
Dr. John Bloch	<i>Plant Protection &</i> <i>Pesticide Management</i>
David Hughes	<i>Audits & Reports</i>
Don Stagg	<i>Gins & Warehouses / Weights & Measures</i>
Tom Stephenson	<i>Shipping Point Inspection</i>
Dave Gonsoulin	<i>Livestock Market News</i>
Dave Kelweno	<i>Agricultural Statistics</i>
Ray Latham	<i>Poultry</i>
Jeanette Smith	<i>Petroleum Commodities</i>
John Dewey Jinks	<i>Chemical Lab, Auburn</i>
Audrey Dismukes	<i>Gins & Warehouses</i>
<i>Agricultural Center Board</i>	242-5597
Post Office Box 70026, Montgomery, AL 36107	
L.T. Farris	<i>Coliseum Manager</i>
C. Ed Wesson	<i>Assistant Manager</i>
<i>Aeronautics, Alabama Department of</i>	242-4480
770 Washington Avenue, Suite 544, Montgomery, AL 36130	
George Garzon	<i>Director</i>
<i>Alabama Development Office</i>	242-0048
135 South Union Street, Montgomery, AL 36130	
James Sizemore	<i>Director</i>
David Roberts	<i>Assistant Director</i>
<i>Alcoholic Beverage Control Board, Alabama</i>	271-3840
2715 Gunter Park Drive West, Montgomery, AL 36109	
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<i>Board Members:</i>	
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Joe Rookis	<i>Montgomery</i>

Joe Adams	<i>Legal Counsel for Board</i>
Mrs. Hendon B. DeBray	<i>Administrator</i>
Freddie Day	<i>Assistant Administrator</i>
<i>Architects, State Board for Registration of</i>	242-4179
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<i>Archives and History, Department of</i>	242-4441
624 Washington Avenue, Montgomery, AL 36130	
Dr. Edwin C. Bridges	<i>Director</i>
<i>Arts and Humanities, Council on the</i>	242-4076
1 Dexter Avenue, Montgomery, AL 36130	
Al Head	<i>Executive Director</i>
Bill Bates	<i>Deputy Director</i>
<i>Athletic Association, Alabama</i>	242-5655
926 Pelham Street, Montgomery, AL 36104	
Dan Washburn	<i>Executive Director</i>
<i>Auctioneers, Board of</i>	739-0548
109 Downtown Plaza, Cullman, AL 35055	
Zelda Turner	<i>Office Administrator</i>
Raddie Dixon	<i>Secretary</i>
<i>Bar Association, Alabama State</i>	269-1515
415 Dexter Avenue, Montgomery, AL 36101	
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<i>Banking, State Department of</i>	242-3452
101 South Union Street, Montgomery, AL 36130	
Kenneth McCartha	<i>Superintendent</i>
J.J. Johnson	<i>Assistant Superintendent</i>
<i>Budget Officer</i>	242-7230
Alabama State House Bldg., Room 237, Montgomery, AL 36130	
Charlie Rowe	
<i>Building Commissioner, State</i>	242-4082
770 Washington Avenue, Suite 444, Montgomery, AL 36130	
Corky Pugh	<i>Director</i>
<i>Buildings, State</i>	
Folsom Administrative Building	Nell Golthy, <i>Custodian</i>
Archives and History Building	Edward Ross, <i>Custodian</i>
State House Building	Norman V. Anderson, <i>Custodian</i>
Industrial Relations Building ..	William E. Crowder, <i>Custodian</i>
Judicial Building	Ellis Moore, <i>Custodian</i>
Public Safety Building	James Howard, <i>Custodian</i>
State Office Building	Arthur Elmore, <i>Custodian</i>
Gordon Person's Building	Kermit Suggs, <i>Custodian</i>

- Chiropractic Examiners, State Board of*947-5838
 Post Office Box 925, Robertsedale, AL 36567
 Dr. D.K. Cooper*Secretary*
- Comptroller, State*242-7050
 Alabama State House Building, Room 110, Montgomery, AL 36130
 Robert Childree
- Conservation and Natural Resources, Dept. of*242-3486
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 William Goolsby*Assistant Commissioner*
 Charles D. Kelley*Director, Div. of Game & Fish*
 James Griggs*Director, Div. of State Lands*
 William B. Garner*Director, Div. of Marine Police*
 R. Vernon Minton*Director, Div. of Marine Resources*
 Gary Leach*Director, Parks Division*
 Linda Susan Mims*Accounting*
- Consumer Protection, Department of*242-7334
 Alabama State House, Room 429, Montgomery, AL 36130
 Priscilla Duncan*Director*
- Contracts, State Licensing Board of General*242-2839
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 Cherie E. Colquett*Executive Secretary*
- Corrections, Board of*242-9400
 50 Ripley Street, 3rd Floor, Montgomery, AL 36130
 Thomas Herring*Commissioner*
- Cosmetology, State Board of*242-5613
 1000 A Interstate Park, Montgomery, AL 36130
 Faye W. Longcrier*Executive Secretary*
- Courts, Administrative Office of*834-7990
 817 South Court Street, Montgomery, AL 36130
 Oliver Gilmore*Director*
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 2308-B Starmount Circle, Huntsville, AL 35801
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- Docks Department, State*690-6112
 Post Office Box 1588, Mobile, AL 36633
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<i>Economic and Community Affairs, Alabama Dept. of</i>	284-8700
3465 Norman Bridge Rd., Montgomery, AL 36105	
David Hooks.....	<i>Director</i>
Don Hines	<i>Assistant Director</i>
<i>Education, State Department of</i>	242-9700
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Dr. W.E. Mellow, Jr.	<i>Deputy State Superintendent</i>
Dr. Eddie Johnson	<i>Assistant Superintendent for</i> <i>Professional Services</i>
Bill Rutherford	<i>Assistant Supt. of Admin. and</i> <i>Financial Services</i>
Dr. Maurice Persall	<i>Assistant State Supt. for General</i> <i>Administrative Services</i>
Dr. Kenneth Wilson	<i>Director of Federal Adm. Services</i>
Dr. Steve Franks.....	<i>Director, Voc. Education</i>
Lamona Lucas	<i>Director, Rehabilitation Services</i>
Walt Chambers	<i>Coordinator of Purchasing Section</i>
Earl Gates.....	<i>Director, Legislative Services</i>
Tommey Warren	<i>Director, Division of Disability</i> <i>Determination Services</i>
Dr. Charlie Williams.....	<i>Asst. State Superintendent, Student</i> <i>Instructional Services</i>
Richard Meadows.....	<i>Director, Office of General Counsel</i>
Dr. Rex Jones	<i>Director, Computer Services</i>
<i>Emergency Management Agency, Alabama</i>	242-3318
520 South Court Street, Montgomery, AL 36130	
Lawerance Bowden.....	<i>Director</i>
Greg McWhorter.....	<i>Assistant Director</i>
<i>Employees' Retirement System of Alabama</i>	832-4140
135 South Union Street, Montgomery, AL 36130	
Dr. David Bronner.....	<i>Chief Executive Officer</i>
<i>Engineers and Land Surveyors, State Board of</i>	242-5568
301 Interstate Park Drive, Suite 212, Montgomery, AL 36130	
Sara Hines.....	<i>Executive Secretary</i>
<i>Entomologists, Horticulturists, Floriculturists and Tree</i> <i>Surgeons, Board to Examine</i>	832-3753
A.W. Todd.....	<i>Commissioner</i>
<i>Environmental Management, Alabama Dept. of</i>	271-7700
1751 Congressman Dickinson Dr., Montgomery, AL 36130	
Leigh Pegues.....	<i>Director</i>
<i>Ethics Commission</i>	242-2997
770 Washington Avenue, Suite 330, Montgomery, AL 36130	
Melvin G. Cooper	<i>Director</i>

<i>Examiner of Public Accounts, Dept. of</i>	242-9200
50 North Ripley Street, Montgomery, AL 36130-2101	
Ronald L. Jones	<i>Chief</i>
<i>Executive Department, Governor's Office</i>	242-7100
Alabama State House, Montgomery, AL 36130	
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Frankie Davis.....	<i>Executive Secretary</i>
Judge John Karrah.....	<i>Legal Advisor to the Governor</i>
Barbara Thomas	<i>Press Secretary</i>
Dannie Shockley	<i>Recording Secretary</i>
<i>Farmers' Market Authority</i>	242-2618
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Bill Adams.....	<i>Director</i>
<i>Finance Department</i>	242-7160
Alabama State House, Montgomery, AL 36130	
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Charles Rowe	<i>Assistant Director, Budget Officer</i>
Kent Rose	<i>Purchasing Agent</i>
Robert Childree.....	<i>State Comptroller</i>
Lamar Harris.....	<i>Deputy Budget Officer</i>
Lee Miller	<i>Legal Counsel</i>
Don Drablos	<i>Chief, Division of Service</i>
Ben Spiller	<i>Risk Manager, Insurance Fund</i>
Mickey McGee	<i>Director, Space Management & Personnel</i>
Jerry Wilson.....	<i>Printing and Publication Division</i>
<i>Forensic Sciences, Dept. of</i>	887-7001
Post Office Box 231, Auburn, AL 36831-0231	
Mr. Carlos Rabren	<i>Director</i>
<i>Forestry Commission, Alabama</i>	240-9304
513 Madison Avenue, Montgomery, AL 36130-0601	
C.W. "Bill" Moody	<i>Director</i>
<i>Foresters, State Board of Registration for</i>	240-9368
513 Madison Avenue, Montgomery, AL 36130	
Waymon Paul	<i>Chairman</i>
Bob Lowe	<i>Secretary</i>
Pamela B. Sears.....	<i>Office Manager</i>
<i>Funeral Services, Board of</i>	242-4049
770 Washington Avenue, Suite 226, Montgomery, AL 36130	
Warren Higgins.....	<i>Executive Secretary</i>
<i>Geological Survey of Alabama</i>	349-2852
Post Office Box O, Tuscaloosa, AL 35486-9780	
Dr. Ernest Mancini	<i>State Geologist</i>

<i>Health, Department of Public</i>	242-5052
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